

AGAPITO B. ANDAL, PETITIONER, VS. BIENVENIDO A. TAN, JUDGE OF FIRST INSTANCE OF RIZAL, THE PROVINCIAL SHERIFF OF RIZAL, CONSUELO ROXAS AND SALVADOR GOMEZ, RESPONDENTS.*G. R. No. L-1651. February 17, 1948*

Ponente: TUASON, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/0449d3d772da/>**TUASON, J.:**

This is a petition for certiorari to annul two orders of the Court of First Instance of Rizal relative to the execution of a final judgment entered in an action for unlawful detainer of a city lot situated in Rizal City, (Pasay). One of the orders, dated August 14, 1947 and issued by Judge Eulalio Garcia, allowed the petitioner herein and defendant in the above-mentioned case, a grace of "not exceeding six months, counted from the date of the filing of the petition for suspension, July 8, 1947, on condition that the defendant deposits with this court, in advance, all the rents due during the period of suspension, at the rate of P160 a month, plus the costs in the amount of P52.24 adjudged in favor of the plaintiffs and the further amount of P200 to answer for damages." The other order was issued by Judge Bienvenido A. Tan on August 23, 1947, denying the execution debtor's motion for reconsideration of Judge Garcia's order and enjoining, besides, "bajo pena de desacato, el estricto cumplimiento de la orden de fecha 14 de agosto de 1947." Judge Tan added: "Apareciendo igualmente en el record que la fianza prestada por el demandado dado no es suficiente para cubrir los alquileres vencidos, el Juzgado ordena a dicho demandado que deposite o pague directamente al demandante, la cantidad correspondiente a los alquileres vencidos hasta la fecha dentro del plazo de 10 dias, a contar desde la fecha en que reciba copia de esta orden."

The judgment was rendered as early as November 20, 1946; a judgment appeal from which by the defendant, petitioner herein, was dismissed by the Court of Appeals for having been filed out of time. The suspension of execution for six months was granted, "in the interest of justice and equity", upon the defendant's own motion, although, at best, the case, did not clearly fall within the provisions of Commonwealth Act No. 689 as the defendant's house on the lot in question was partly rented out and partly used for commercial purposes.

The objection of the defendant was directed solely against that part of each of the two orders concerning the deposit and the manner of payment of rents during the period of suspension. The prayer was to amend these orders "so as to eliminate therefrom the requirement for the defendant to deposit the sum of P200 for damages, and so as to merely require said defendant to pay the plaintiffs the rents corresponding to the period of the suspension within the first ten (10) days of the months' to which they respectively correspond."

As the respondents' counsel anticipated in their memorandum filed on November 10, 1947, this case had then, for all practical purposes, become moot. Now it is absolutely so. The time consumed for the case to reach its turn on the calendar of hearings and for deliberation has already exceeded six months, thus enabling the petitioner to escape compliance with the conditions imposed by the respondent judge and his predecessor and assailed by the petitioner. The period of six months commenced on July 8, 1947, and ended on January 8, 1948.

There would seem, therefore, no necessity of deciding the questions raised in the petition. However, lest our

failure to dispose of these questions might serve as a new ground for a motion for reconsideration and be the cause of further delay in the execution, now long overdue, of the judgment, we shall express our opinion on the matter: We do not construe the orders as an abuse of discretion. They are in substantial, almost in literal accord with the applicable provisions. Section 5 of Commonwealth Act No. 689, as amended by Republic Act No. 66, empowers the court to suspend execution of an order or judgment "on the condition that the requirements laid down for said suspension shall be complied with;" and section 6 of Act No. 689 expressly provides that "The order of suspension shall be granted and will continue in force only on condition that the person against whom judgment has been rendered deposits the total amount of rents due during the period of suspension or such portions of said amount as the Court may order from time to time, at the same rate of rental that he was charged for the month immediately preceding the expiration of the lease. This deposit shall include, in addition, the costs and all rents due and not paid before the suspension and a reasonable amount to answer for damages."

The petitioner in his memorandum touches on the merits of the case, going to the extreme of contending that the decision should be modified so as to reduce the monthly rent to P96. This contention is out of order. The judgment is no longer open to attack and is not put in issue by the petition.

The petition is denied and dismissed with costs against the petitioner.

Paras, Perfecto, Hilado, and Briones, JJ., concur.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.