

FILOMENO B. CASSION AND LORENZA B. CASSION, PLAINTIFFS AND APPELLEES, VS. BANCO NACIONAL FILIPINO AND ANGEL C. CABATINGAN, DEFENDANTS. BANCO NACIONAL FILIPINO, DEFENDANT AND APP...

G. R. No. L-3540. July 30, 1951

Ponente: TUASON, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/0ab8519e13c2/>

TUASON, J.:

On April 8, 1932, the plaintiffs mortgaged two parcels of land, which they had acquired as homesteads, to the Philippine National Bank to secure a promissory note for P600. The mortgagors having defaulted, the Bank extrajudicially foreclosed the mortgage and was the highest bidder at the ensuing auction sale, held on November 19, 1934. Over one year afterward, the Bank sold the two parcels to Angel C. Cabatingan, after which, but before the expiration of five years from the date of the auction sale, the plaintiffs offered to repurchase the lands and the Bank turned down the offer. The upshot was this suit against the Bank and Cabatingan.

Upon the above facts, the court below entered judgment for the plaintiffs and the Philippine National Bank appealed, but not Cabatingan, although he had filed a "counterclaim" and a "cross-complaint" against his co-defendant.

The appellant rests its case on Act No. 2938, which amended Act No. 2712 creating the Philippine National Bank, and Act No. 3135, which authorizes extrajudicial foreclosures of mortgage. Section 32 and Section 6 respectively of these Acts allow the debtor only one year to redeem property sold under a mortgage foreclosure whether judicial or extrajudicial. On the other hand, the plaintiffs rely on Section 117 of Act No. 2874, known as the Public Land Act, as amended, which provides that "every conveyance of land acquired under the free patent or homestead provisions, when proper, shall be subject to repurchase by the applicant, his widow, or legal heirs for a period of five years from the date of the conveyance."

The simple and sole question for decision is, which of these conflicting provisions ought to prevail in this case? This is the only question on which the Bank joined issue with the plaintiffs in its answer and to which we need address ourselves. Moreover, the other assignment of error are nonfundamental and not well taken.

Section 288 of Act No. 190 laid down the rule in the construction of two or more conflicting statutes or instruments, by providing that "when a general and particular provision are inconsistent, the latter is paramount to the former," and that "a particular intent will control a general one that is inconsistent with it." Section 60 of Rule 123 of the Rules of Court reproduced Section 288 of the former Code of Civil Procedure governing the interpretation of conflicting instruments but omitted that part which refers to conflicting laws. It is not necessary to express an opinion whether the Rules of Court repealed the omitted part; for with or without an express enactment it is a familiar rule of statutory construction that to the extent of any necessary repugnancy between a general and a special law or provision, the latter will control the former; without regard to the respective dates of passage. (*Lichauco & Co. vs. Apostol and Corpus*, 44 Phil. 138; 59 C. J. 1056; 1057; *Crawford, The Construction*

of Statutes, section 230.)

Now then, it seems plain that section 32 of Act No. 2938 and section 6 of Act No. 3135 are wider in scope or more comprehensive than Section 117 of Act No. 2874. They comprehend all kinds of property brought within the relations and circumstances provided thereby, while section 117 of Act No. 2874 relates to a specific class of property. Stated otherwise, the property on which the Philippine National Bank's Charter and Act No. 3135 are operative is any property mortgaged to the Bank, whereas, as already stated, Act No. 2874 by its own terms is operative only on lands acquired under the free patent or homestead provisions. Section 32 of Act No. 2938 and Section 6 of Act No. 3135 standing alone would include homestead or free-patented lands, while Section 117 of Act No. 2874 would not embrace any property other than that mentioned therein even if Acts Nos. 2938 and 3135 did not exist. To use the words of Act No. 190 and the Rules of Court, Act No. 2874 manifests "a particular intent," the intent to promote the spread of small land ownership and the preservation of public land grants in the hands of the underprivileged for whose benefit they are specially intended and whose welfare is a special concern of the State.

We therefore hold that Act No. 2874 is controlling, that homestead constitute an exception of Acts No. 2938 and 3135, and that the appealed decision should be affirmed. It is so ordered with costs against the appellant.

Paras, C. J., Feria, Pablo, Bengzon, Padilla, Montemayor, Reyes, Jugo and Bautista Angelo, 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.