

ESPERANZA V. BUHAT, ET AL., PLAINTIFFS AND APPELLANTS, VS. ROSARIO BESANA, ETC., ET AL., DEFENDANTS AND APPELLEES.*G.R. No. L-6746. August 31, 1954*

Ponente: PARAS, C.J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/1cd7942de156/>**PARAS, C.J.:**

On May 31, 1924, Jose M. Besana mortgaged his undivided one-half share in lot No. 1406 of the cadastral survey of Panay in favor of Luis Bernales, to secure an indebtedness of P900, payable within six years from said date. On October 27, 1926, original certificate of title No. RO-1364 (10255) was issued in the name of Jose M. Besana and Rosario Besana, brother and sister, covering lot No. 1406 in undivided equal shares; and on said certificate the mortgage in favor of Luis Bernales was noted. Jose M. Besana died and his portion passed to his surviving sister, Rosario Besana. Luis Bernales also died and his mortgage credit against Jose M. Besana was inherited by Antonio Bernales who in turn transferred the same to the herein plaintiffs, Esperanza V. Buhat and Mauro A. Buhat. Rosario Besana sold her portion to Manuel B. Bernales who, on June 30, 1950, conveyed it to the plaintiffs. As the indebtedness above referred to remained unpaid, the present action was instituted in the Court of First Instance of Capiz by the plaintiffs against Rosario Besana and her husband Lorenzo Contreras on December 6, 1952, for the foreclosure of the mortgage of May 31, 1924. The defendants Rosario Besana and Lorenzo Contreras filed a motion to dismiss the complaint, on the ground that plaintiffs' cause of action had prescribed, the complaint having been filed more than ten years from May 31, 1930 (in fact some 22 years after the obligation has become due and demandable). On May 6, 1953, the Court of First Instance of Capiz issued an order dismissing the case without costs. The plaintiffs have appealed.

Appellants' contention is that, as the mortgage was registered, the action to foreclose did not prescribe, because section 46 of the Land Registration Act, No. 496, provides that "No title to registered land in derogation to that of the registered owner shall be acquired by prescription or adverse possession." This is clearly without merit. The citation speaks of the title of the "registered owner" and refers to prescription or adverse possession as a mode of acquiring ownership, the whole philosophy of the law being merely to make a Torrens title indefeasible and, without more, surely not to cause a registered lien or encumbrance such as a mortgage—and the right of action to enforce it—imprescriptible as against the registered owner. The important effect of the registration of a mortgage is obviously to bind third parties.

Wherefore, the appealed order is affirmed, and it is so ordered with costs against the appellants.

Pablo, Bengzon, Padilla, Montemayor, Reyes, A., Jugo, Bautista Angelo, Labrador, Concepcion and Reyes, J. B. L., 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.