

**DEMETRIA FLORES, PLAINTIFF AND APPELLANT, VS. THE
PHILIPPINE ALIEN PROPERTY ADMINISTRATOR, DEFENDANT AND
APPELLEE. THE REPUBLIC OF THE PHILIPPINES, INTERVENOR AND
APPELLEE.**

G.R. No. L-12741. April 28, 1960

Ponente: PADILLA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/1f94fda72d0e/>

PADILLA, J.:

On 10 May 1950 the plaintiff filed a complaint against the defendant in the Court of First Instance of Occidental Negros praying that she be authorized to litigate as pauper under the provisions of section 22, Rule 3; that the defendant be ordered to deliver or return to her a parcel of land (Lot No. 3, Block No. 11) situate in Victorias Occidental Negros, and one-half of the other parcel of land (Lot No. 427) located in the City of Bacolod and described in transfer certificate of title No. 12358 issued by the Registrar of Deeds of the City of Bacolod; one-half of two buildings and of a warehouse, the first erected on a parcel of land owned by Genoveva de Jayme and the second and third on lots owned by the Philippine National Bank located in the City of Bacolod; one-half of a mortgage on lots Nos. 63, 983 and 985 of the Cadastral Survey of Murcia and described in original certificates of title Nos. 8546, 21661 and 21662. executed by Jose E. Domingo in favor of K. Ishiwata to secure the payment of P30,989.27, the balance thereof remaining unpaid being P27,493.14; and one-half of P1,394.05, a deposit with the Bacolod Branch of the Philippine National Bank by K. Ishiwata, described in the complaint, vested in the United States of America by the defendant in Vesting Order No. P-620 dated 29 April 1948 pursuant to the provisions of the Trading with the Enemy Act of 6 October 1917, as amended, and the Philippine Property Act of 1946; to pay her the sum of P3,000 a year from September 1945 until their return to her with legal interest thereon and the costs of the suit; and that she be granted other just and equitable relief (civil No. 1621), upon the ground that she acquired the Victorias lot before she came to live with K. Ishiwata as wife and husband but without benefit of clergy and the rest of the properties and credits was acquired by them while living together as husband and wife by and through common and joint effort, thrift and industry. On 16 May 1950 the Court entered an order authorizing the plaintiff to litigate as pauper. On 26 May 1950 the defendant filed an answer denying the plaintiff's allegations; averring that the plaintiff's notice of claim to the said parcels of land, buildings and credits (No. 844) filed on 8 January 1949 under section 32(a) of the Trading with the Enemy Act had been denied by the Vested Property Claims Committee on 9 August 1949 and on 27 April 1950 the defendant affirmed the denial; and setting up the affirmative defense that the defendant had not consented or does not consent to be sued for damages by any claimant seeking to establish any right, title or interest in any property vested by him; and that under section 9(a) of the Trading with the Enemy Act, as amended, and section 3 of the Philippine Property Act of 1946 the Court is without jurisdiction to take cognizance of any action for damages against the defendant, or to assess any interest in connection therewith, or to charge the costs of the suit against him. On 31 May 1950 the plaintiff replied to the defendant's answer.

On 31 August 1951 the Republic of the Philippines asked for leave to intervene in the case and attached to its

motion for intervention its answer where it states that it adopts as its own and incorporates therein by reference all the allegations averred in the defendant's answer. On 8 September 1951 the Court granted the motion for intervention prayed for and allowed the answer in intervention.

On 11 February 1952 the defendant prayed for leave to amend its answer to include, pursuant to section 32(g) of the Trading with the Enemy Act, a counterclaim in the sum of P9,556.80 which had been incurred for the conservation, preservation or maintenance of the properties in question and in such additional sum for similar expenses as might still be incurred up to final determination of the case, should judgment be rendered in favor of the plaintiff. On 16 February 1952 the Court granted the leave prayed for and allowed the defendant's amended answer with counterclaim. On 25 February 1952 the plaintiff filed a motion praying that the defendant be ordered to file a bill of particulars of his counterclaim. On 5 March 1952 the defendant filed a reply stating that he had no objection to the plaintiff's motion but praying that he be granted a period up to 15 May 1952 to file a bill of particulars. On 8 March 1952 the Court entered an order granting the plaintiff's motion for a bill of particulars and the defendant's prayer for a period up to 15 May 1952 within which to file a bill of particulars. On 12 May 1952 the defendant filed a motion for extension of time to file the bill of particulars. On 17 May 1952 the Court granted the defendant's motion for extension for thirty days from 15 May. On 11 June 1952 the defendant filed the bill of particulars. On 18 June 1952 the plaintiff filed an answer to the defendant's counterclaim averring that the amounts claimed by him in his bill of particulars "are not expenses which have bearing at all in this case and the plaintiff has nothing to do with the incurring of the same by the said defendant."

On 5 January 1953 the intervenor filed an amended answer in intervention adopting as its own and incorporating therein by reference "all the allegations contained in the Amended Answer with Counterclaim of the defendant."

On 22 March 1954 the plaintiff sought leave to amend her complaint, attaching to her motion the amended complaint dated 20 March 1954. On 3 April 1954 the Court entered an order allowing the plaintiff's amended complaint.

On 28 March 1955 the hearing of the case was set for 1, 2 and 3 June 1955 at 8:30 o'clock a.m. On the first day of the hearing, neither the plaintiff nor her counsel appeared. Whereupon the defendant and the intervenor moved in open court for the dismissal of the case. The Court granted their motion and dismissed the case.

On 3 and 6 June 1955 the plaintiff filed motions for reconsideration of the order dated 1 June 1955 dismissing her case on the ground that from 26 May to 1 June 1955 her counsel was in Dumaguete City attending a meeting of the Board of Trustees of Silliman University, of which he was a member, and because of the many important matters affecting the University that were taken up at the meeting, the hearing of the case set for 1 June 1955 "slipped off his mind." The intervenor and the defendant filed oppositions to the motions for reconsideration and the plaintiff a reply thereto. On 28 June 1955 the Court entered an order denying the plaintiff's motions for reconsideration. On 6 July 1955 the plaintiff filed another motion for reconsideration and on 22 July the defendant an objection thereto. On 20 August 1955 the Court denied the plaintiff's motion for reconsideration of 6 July 1955. The plaintiff appealed to the Court of Appeals, which certified the case to this Court for the reason that solely questions of law are raised.

It appears that the original complaint in this case was filed on 10 May 1950; that the defendant's answer was filed on 26 May 1950; that the case was finally set for hearing on 1, 2 and 3 June 1955 after "the hearing of this case had been repeatedly postponed from July 5, 1951 to this date (June 1955) on petition mostly of the plaintiff;" and that the appellant had been duly notified of the dates set for the hearing of the case. The dismissal of an action pursuant to section 3, Rule 30, for failure of the plaintiff to appear at the time of the trial "rests upon the sound discretion of the Court and will not be reversed on appeal in the absence of abuse. The burden of showing abuse

of judicial discretion is upon the appellant since every presumption is in favor of the correctness of the court's action." [1]

In her motions for reconsideration of the order dismissing her complaint, the appellant invoked excusable neglect of her counsel. In effect they are motions for new trial under Rule 37 or relief from an order of the Court of First Instance under Rule 38 which must be accompanied by affidavits of merit. As she failed to attach one to her motions, the Court could decline to entertain them. And even if the requirement of an affidavit of merit to be attached to the appellant's motions be waived because the ground invoked by her counsel was excusable neglect on his part and the motion for reconsideration dated and filed on 6 July 1955 was verified by him, still there appears no sufficient reason for granting a new trial or relief from the order of dismissal. Counsel for the appellant received notice of the hearing set by the Court and should have seasonably asked for postponement as he had done before on several occasions when he or his client could not appear on the date set for hearing. A client is bound by the negligence or mistake of his lawyer.[2]

In the objection dated 22 July 1955 to the second motion for reconsideration, the appellees cite the case of *Demetria Flores vs. Rehabilitation Finance Corporation*, 94 Phil., 451; 50 Off. Gaz., 1029, where this Court ruled that the claim of Demetria Flores to one-half of two parcels of land mortgaged by K. Ishiwata to secure the payment of a loan of P70,000, predicated upon the same ground as the one alleged by her in the instant case, could not be sustained.

The orders appealed from are affirmed, with costs against the appellant.

Paras, C. J., Bengzon, Bautista Angelo, Labrador, Concepcion, Endencia, and Gutierrez David, JJ., concur.

[1] *Smith Bell & Co., Ltd. vs. American President Lines Ltd.*, 94 Phil., 879; *Matias vs. Teodoro*, 102 Phil., 701; 54 Off. Gaz., 619; *Benares Montelibano vs. Benares*, 103 Phil., 106; 54 Off. Gaz., 3787.

[2] *Montes vs. Court of First Instance of Tayabas*, 48 Phil., 640, 645; *Isaac vs. Mendoza*, 89 Phil., 279; *Vivero vs. Santos*, 98 Phil., 500, 52 Off. Gaz., 1424.

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.