

ERLANGER & GALINGER, INC., PLAINTIFF AND APPELLEE, VS. AMPARO EXCONDE, DEFENDANT AND APPELLANT; ERLANGER & GALLINGER, INC., PLAINTIFF AND APPELLEE, VS. AMPARO EXCONDE, DEFENDANT...

G.R. Nos. L-4792-95. September 30, 1953

Ponente: LABRADOR, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/31c415be3e50/>

LABRADOR, J.:

In the year 1938 Erlanger & Galinger, Inc. obtained a judgment in Civil Case No. 6249 of the Court of First Instance of Laguna against Gil Exconde for the foreclosure of a mortgage amounting to P26,397.14, with legal interest. Upon appeal to the Court of Appeals this judgment was affirmed, and on February 17, 1940 an order was issued for the execution of the judgment. The provincial sheriff gave notice of the sale of the properties mortgaged. Erlanger & Galinger, Inc. claims and alleges that the sale was actually effected; that it bought the properties, and a deed of sale executed by the sheriff in its favor; that the sale was confirmed by the court, the sale was registered in the Office of the Register of Deeds of Laguna, and certificates of title were issued in its favor by said office over the registered lands, all prior to the war; that it was placed in the possession of the properties and was in such possession during the war; and that the record of the case in the Court of First Instance, and the proceedings for the sale, registration and issuance of the titles, as well as the titles issued in its name, were all destroyed during the liberation. G.R. No. L-4792 is a proceeding instituted by Erlanger & Galinger, Inc. to reconstitute the records of the old case, Civil Case No. 6249, while G.R. No. L-4793 is an action instituted by it to recover possession of the properties it had acquired by virtue of the sale on execution, together with damages. G. R. No. L-4794, Case No. 7, G.L.R.O. No. 244 is a proceeding for the registration of various parcels of land by Gil Exconde, his wife Emilia J. Santos, Mamerta Exconde and Arsenio Exconde. Erlanger & Galinger, Inc. filed an opposition claiming that the lands were some of those it had purchased in the execution sale in case No. 6249. G.R. No. L-4795, G.L.R.O. Rec. No. 1201, is an application of Erlanger & Galinger, Inc. to have the certificates of title issued in the name of Eduvigis Javier and Emilia J. Santos over lots Nos. 39 and 48 cancelled, and to have new titles issued in its name. These four cases were tried jointly, and after trial the court rendered judgment sustaining the claims of Erlanger & Galinger, Inc. In G.R. No. L-4792, it ordered the reconstitution of all proceedings entered in the docket of the court, and of the notice of sale, the certificate of sale executed in favor of Erlanger & Galinger, Inc. and the Sheriff's return; in G.R. No. L-4793, it ordered the defendants to return the possession of the properties to the plaintiff and to pay it by way of damages P3,000 a year, until the possession was returned. In G.R. No. L-4794, it sustained the opposition of Erlanger & Galinger, Inc. to lots nos. 1, 2, 3 and 4, and ordered their registration in its name. And in G. R. No. L-4795, the court ordered the cancellation of Certificates of Title Nos. 9062 and 9089 and the issuance of new ones in the name of Erlanger & Galinger, Inc.

Did the foreclosure sale take place in the original case, and Erlanger & Galinger, Inc. become the owner of the parcels of land sold thereat? This is the most important question at issue in all these cases, upon which depend the outcome of the other three actions. Plaintiff's evidence consists of the following testimonies: that of the prewar

provincial sheriff of Laguna to the effect that the sale of the properties took place, after due notice, that the court confirmed the sale, and that he executed the deed of sale in favor of Erlanger & Galinger, Inc.; that of the notary public that he ratified the deed of sale executed by the sheriff; that of the register of deeds of Laguna that he registered the deeds of sale and issued the certificates of sale in the name of Erlanger & Galinger, Inc.; that of plaintiff's attorney that he took the certificate of sale for registration to the office of the register of deeds of Laguna; that of the head of the firm of Erlanger & Galinger, Inc. that he had kept the titles in the safe at his office; that of the accountant in said firm that he had also seen the titles in the safe of the company; and those of two attorneys of San Pablo City that they had gone to Erlanger & Galinger, Inc. offices to offer to purchase the properties on behalf of clients who were interested in buying them, or investigate the possibility of buying them.

The defendant Emilia J. Santos, wife of Gil Exconde, claims that she had paid the full amount of the indebtedness around the middle of March, 1941, and testified to having gone personally to the manager of the plaintiff company paying him therefor P30,000, of which sum P5,000 was furnished by Marcos Paulino; and to having received the three original certificates of title of the properties and a certain "compromise agreement", which papers were turned over to her attorney, Zacarias B. Ticson for the corresponding motion in court. She further declared she had received a receipt for the payment, but which was destroyed during the war. Her testimony is sought to be corroborated by a copy of a supposed order of the court, Exhibit 6-Exconde, wherein the sale was declared annulled, and by testimonial and documentary evidence to the effect that the properties were paid for during the military occupation to the Japanese military, and thereafter registered in the name of the defendants. The most important of these is Exhibit 3-Exconde, supposed translation of a document executed in Japanese, evidencing payment of P26,399.14, representing a mortgage indebtedness of Gil Exconde to Erlanger & Galinger, Inc. It can be noted, however, that the validity of the supposed payment set forth in said receipt, Exhibit 3-Exconde, assuming its authenticity and legality, absolutely depends on a subsisting mortgage indebtedness, the existence of which is, however, denied by plaintiff on the ground that the properties mortgaged had already been sold and acquired by it in a foreclosure sale, with certificates of title issued in its name. In the last analysis, therefore, the most important issue is the existence of the supposed sale on foreclosure, which sale is affirmed on the one hand by plaintiff, and denied on the other hand by defendants. We must state in advance that the testimonies of the formidable array of witnesses presented by plaintiff to prove the sale, all of whom are disinterested, may not be ignored, unless some more credible evidence, like a public document, the authenticity of which is unquestioned or unquestionable, can be presented to overcome their import. This is sought by defendants in Exhibit 6-Exconde and Exhibit 3-Exconde, which are now to be considered.

The theory of the defendants to sustain the supposed existence of Exhibit 6-Exconde is that Atty. Tanalega filed an ex-parte motion in case No. 6249 asking for the annulment of the sale (or notice of sale) on the ground that the mortgage indebtedness had been paid, and Judge Proceso Sebastian thereupon issued said order. Upon examination of the testimony of Atty. Tanalega, our attention was struck by the fact that whereas he gives specific and detailed facts and circumstances on even minor incidents, he testifies in generalities about the alleged motion, mentioning no specific document or fact upon which he based it, nor the circumstances and incidents connected therein that would confirm the fact of its having been presented or which give rise to it. He purposely avoids testifying on the matter of payment, how it was supposedly made, the receipt which should have been presented, and how said payment was proved or shown to the court. If Emilia J. Santos had a receipt of payment, why was not this given to him, or why does not the witness make any mention thereof? From experience, we know that this lack of definiteness or concreteness as to facts is a badge of fabrication or falsity. To corroborate the supposed filing of the motion, Emilia J. Santos testified she gave the certificates of title from Erlanger & Galinger, Inc., together with the receipt of the payment of the debt, to Atty. Zacarias B. Ticzon, for the purpose of having the mortgage cancelled. But Atty. Ticzon denied having received the supposed receipt of payment, or the certificates

of the title (t. s. n., p. 386), and positively asserted that the papers received were those connected with another case, Civil Case No. 7475. Judge Sebastian, who is the one who supposedly issued the order, was made to make a statement and he declared in his deposition that he could not have issued the order, Exhibit 6-Exconde. A careful study of the order itself discloses its spurious character. No judge would issue such an important order, annulling a sale on an ex-parte motion, without the certificate of payment or any other authentic document to the same effect being presented in court in support of the ex-parte motion. If the sale or notice of sale had actually been annulled, why is it that Exhibit 5-Exconde filed by defendants themselves shows that as late as May 15, 1941 (date of exhibit), the sheriff still gave notice to the Register of Deeds of the sale of the unregistered lands included in the notice of sale on execution? Again, if the mortgage indebtedness had really been paid, why is it that the manager of Erlanger & Galinger, Inc. should refuse to execute a deed of cancellation of the mortgage, as Emilia J. Santos herself had declared? The excuse given by her is that her husband, Gil Exconde, refused to work again with the company. This is incredible and inconsistent with reason and sense. Why should Erlanger & Galinger, Inc. still desire to have her husband continue working for it, after it had gone to a long and arduous litigation to make him pay his accounts?

The supposed circumstances sustaining the theory of payment do not actually support it; they belie it completely. The testimonial evidence given by the clerk who issued the copy, on the supposed existence of the order, Exhibit 6-Exconde, which he supposedly copied, merits scant consideration, there being no credible corroborative evidence to support its truth, and the circumstances already mentioned above indicating its falsity. The testimony, which is direct evidence of the supposed existence of the order supposedly copied is, unlike the surrounding circumstances, easy of fabrication, and no court of justice would give it credence if the surrounding circumstances, instead of corroborating it, belie its existence. On the other hand, the evidence submitted by plaintiff, which is all circumstantial and therefore less susceptible to fabrication, constitutes an unbroken chain of natural and rational circumstances corroborating each other, and it certainly can not be overcome by the very inconcrete and doubtful evidence submitted by the defendants. We, therefore, find that the conclusion of the trial court that the properties in question were actually purchased at the foreclosure sale by plaintiff and were, thereafter, registered in its name is supported by a great preponderance of the evidence, and said finding must be sustained.

We will now proceed to consider the objections raised against the procedure followed in the reconstitution, or the sufficiency of the proceedings on which the order of reconstitution is based. Appellant's contention that proceedings subsequent to a judgment may not be reconstituted, because reconstitution applies only to pending cases, must be dismissed. Judicial records are subject to reconstitution without exception, whether they refer to pending or finished cases. This may be inferred from Secs. 4 to 7 of Act No. 3110. There is no sense in limiting reconstitution to pending cases; finished cases are just as important as pending ones, as evidence of rights and obligations finally adjudicated.

It is also argued that before reconstitution may be allowed on the basis of secondary evidence, the loss of the proceeding to be reconstituted must first be proved, as well as its existence and content, and that these requisites were not complied with by the plaintiff in this case. The evidence submitted shows that the record of the case after the order of execution was destroyed and could no longer be found. It was further proved that there was a certificate of sale executed by the sheriff and ratified by him, that this certificate was presented to the registered of deeds, and that the latter issued certificates of title in the name of the plaintiff. Under the above circumstances, there was no need of proving the contents of each and every one of the above proceedings or documents because courts can take judicial notice of what they contained. Standard forms are used for such proceedings or documents, hence there was no need to prove what their contents were. There was also no need of proving that there was an order for the confirmation of the sale, because no certificate of sale would have been executed and

registered without such order.

Having found that the order of the trial court in Case No. 6249, G.R. No. L-4972, ordering the reconstitution is sustained by the evidence on record and is authorized by the law on reconstitution, we next come to the related issue, the validity and effect of the proceedings during the military occupation, evidenced by Exhibits 3-Exconde and 1-Exconde. This issue is the subject of G.R. No. L-4793. By these documents and by testimonies of witnesses the defendants-appellants pretend that the mortgage indebtedness in favor of plaintiff-appellee was paid during the Japanese occupation. It must be stated at the outset that only Exhibit 1-Exconde is authentic and genuine; Exhibit 3-Exconde is a simple copy merely, the authenticity of which is subject of dispute. Exhibit 1-Exconde is an official receipt for the sum of P64.50, under Ex. Or. 89, dated May 30, 1944 "For entry certificate", while Exhibit 3-Exconde purports to be a certificate of payment of an indebtedness. Exhibit 1-Exconde proves that a certificate of sale must have been presented for registration, not a certificate of payment of indebtedness. Exhibit 3-Exconde does not bear the corresponding rubber stamp of the registration office placed in the appropriate case by the Office of the Register of Deeds; it is not the authentic copy of the document actually registered for which Exhibit 1-Exconde was issued. The documents registered as indicated in Exhibit 1-Exconde must have been certificates of sale, not mere receipts of payment of mortgage debts. There is incontrovertible evidence that new certificates of title have been issued in the name of Erlanger & Galinger, Inc. prior to the war, and this circumstance sustains the conclusion that the deeds registered were deeds of sale or transfer. Furthermore, had there been more cancellation of mortgage, no deeds would have been registered at all, but merely affidavits of cancellation. Without elaborating further, we agree with the finding of the trial court that Exhibit 3-Exconde is spurious and confirm its rejection by it. We also agree with the trial court that their execution (of the deeds of sale by the Japanese Military Administration of the properties registered in the name of Erlanger & Galinger, Inc. in favor of defendants-appellants) was unauthorized and violative of the provisions of international law (Sec. III, article 46, The Hague Regulations), and the same and the titles issued by virtue thereof are null and void.

The award of P3,000 as damages yearly is claimed by defendants-appellants as excessive. The court takes judicial notice of the fact that after liberation and until the present prices of copra or coconuts are high, compared to those prevailing prior to the war, in view of the relatively high demand and the limited production. The award made by the trial court is also hereby sustained. So is its award of possession of the lands subject of the action and its dismissal of defendants-appellants' counterclaims.

The outcome of the case on reconstitution also determines that of the other two registration cases, G.R. Nos. L-4794 and L-4795. As the lands claimed by Erlanger & Galinger, Inc. had been purchased by it at the foreclosure sale and titles thereto acquired by it before the war, their registration in its name must be granted.

The judgments appealed from should be, as they hereby are, affirmed, with costs against appellants. So ordered.

Paras, C.J., Pablo, Bengzon, Padilla, Tuason, 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.