

J. M. TUASON & CO. INC., ETC., PLAINTIFF AND APPELLEE, VS. RICARDO BALOY, DEFENDANT AND APPELLANT. D E C I S I O N

G.R. No. L-16727. May 30, 1963

Ponente: DIZON, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/32fb266f43c7/>

DIZON, J.:

This is an appeal from the order of the Court of First Instance of Rizal (Branch of Quezon City) denying appellant's petition for relief from a final and executory judgment rendered on December 16, 1959 in Civil Case No. Q-4290.

It appears that on June 7, 1959, appellee filed the above-mentioned case against appellant to recover possession of a parcel of land containing an area of approximately 550 square meters, to have him remove his house and other constructions therefrom, and to recover the monthly sum of P165.00 as rental from the date he unlawfully occupied the property in April 1949, until possession thereof has been restored to appellee. Appellant filed his answer and, after trial on the merits, the court rendered decision in favor of appellee on October 21 of the same year. Said decision became final and executory and the corresponding writ of execution was issued on December 5, 1959. On the 16th of the same month and year, appellant filed the petition for relief mentioned heretofore, to which appellee interposed a written opposition. After a hearing on the petition, the Court denied the same because it did "not comply with the provisions of the Rules of Court with respect thereto". Besides, the said Motion for Relief from Judgment is not supported by the corresponding affidavit of merit and does not allege any showing of fraud, accident, mistake or excusable negligence to serve as a valid basis of the petition.

The order appealed from must be affirmed.

While the petition for relief was verified, it sets forth no fact or set of facts sufficient to constitute one of the grounds for relief under Rule 38 of the Rules of Court. And as the lower court stated in the appealed order, the petition was not accompanied with an affidavit of merit.

We notice, however, that on pages 12 to 15 of the Record on Appeal, there appears an affidavit of merit subscribed by Cornelio Ruperto, counsel for appellant in this case, as well as in Civil Case No. Q-4290. As it appears printed after the opposition filed by appellee in which the insufficiency of the petition for relief was raised because of the absence of an affidavit of merit to support the same, it may be presumed that this affidavit was prepared to meet and solve the situation. It is, however, clearly insufficient to cure the defect of the petition, because the allegations of fact made therein do not prove either fraud, accident, mistake or excusable negligence, nor do they show a valid defense in favor of the party seeking relief.

WHEREFORE, the order appealed from is affirmed, with costs.

Bengzon, C. J., Padilla, Bautista Angelo, Concepcion, Reyes, J. B. L., Barrera, Paredes, Regala, and Makalintal, 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.