

MAXIMO ACIERTO, GABRIEL ALEGRE, ET AL., PETITIONERS AND APPELLANTS, VS. VICTORINA G. DE LAPERAL, ASSISTED BY HER HUSBAND ROBERTO LAPERAL, RESPONDENTS AND APPELLEES. CONSORCIA B....

G. R. No. L-15983. October 31, 1962

Ponente: BENGZON, C.J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/332561b220df/>

BENGZON, C.J.:

Appeal from an order of the Manila court of first instance which, denying petitioners' motion for continuance, declared their appeal from the Manila municipal court to have been abandoned.

In said inferior court, petitioners had sued respondents to compel acceptance of the monthly rentals for portions of respondents' land in Tondo, Manila, which the former occupied. They offered to deposit such rentals from December 1958 until the court shall have fixed a longer period for their verbal contracts of lease of such portions (which contracts were on a month-to-month basis).

Respondents had refused to accept such rentals because they desired to eject petitioners and had so notified them for the purpose of constructing on the land their own building, the plans of which had been prepared. Accordingly, the answered praying for ejectment and other allied remedies.

The municipal court, after hearing, ordered petitioners to vacate the premises and to pay monthly rents at the specified rate from December, 1958 until actual vacation.

After perfection of their appeal from such order, the Manila court of first instance set the case for hearing¹ on June 2, 1959. However, on May 29, 1959, their counsel filed a motion for postponement. And on June 2 neither counsel nor petitioners appeared. The court denied the request for postponement and consequently declared the appeal abandoned for failure to appear. Reconsideration of said order having been refused, petitioners took this appeal, raising three issues, two of which have already been resolved by this Court in *Acierto vs. Laperal*, 107 Phil., 1088.

The sole question now remaining is whether petitioners' motion for postponement should have been granted.

Bearing in mind the adverse party's apparently well-founded claim that the postponement was a mere dilatory expedient to prolong the tenants' possession of the premises, we find, under the circumstances, no inclination to impute abuse of discretion in the refusal to postpone. Furthermore, the alleged reason for postponement was counsel's previously scheduled trial in Castillejos, Zambales. And yet there were no supporting papers to prove this ground, the motion not being, additionally, under oath.^[1] Such motion was not even scheduled for submission to the court before the day set for trial; and on such day none appeared for petitioners, evidently (but erroneously) on the assumption that postponement would be ordered.^[2] And petitioner's motion for reconsideration—which was, in effect, a motion for relief—attached no affidavit of merit.

Indeed, petitioners do not exhibit any meritorious defense against respondents' legitimate action for ejectment. Their lease contracts with respondents were from month to month. Necessarily, the contracts expired at the end of every month[3] without need of special demand.[4] But because petitioners had occupied the premises for more than a year, respondents gave them more than three months' notice to vacate. This was not unreasonable in the circumstances.

Wherefore, the appealed order should be affirmed, and it is hereby affirmed, with costs against petitioners.

Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., Barrera, Paredes, Dizon, Regala and Makalintal, JJ., concur.

[1] Sec. 3, Rule 26

[2] Vaswani vs. Tarachand, G. R. No. L-15800 Dec. 29, 1960; Ortube vs. Asuncion, G. R. No. L-15813, Dec. 29, 1960.

[3] Art. 1687, New Civil Code.

[4] Estrella vs. Sangalang, 76 Phil. 108; Buhay vs. Cobarrubias, 76 Phil. 213; Villanueva vs. Canlas, 77 Phil. 381.

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.