

PHILIPPINE NATIONAL BANK, PLAINTIFF AND APPELLANT, VS. JOSE F. MONROY, DOING BUSINESS UNDER THE TRADE NAME AND STYLE OF “AVENUE ICE DROP FACTORY”; DEFENDANT AND APPELLEE.

G.R. No. L-19374. June 30, 1964

Ponente: BENGZON, C.J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/36e2da415696/>

BENGZON, C.J.:

This is an appeal from the order of the Manila court of first instance dismissing a complaint of the Philippine National Bank.

Filed in March 1961, such complaint asked for revival of the same court's judgment of May 1949, requiring Jose F. Monroy to pay said Bank the amount of P12,000.00 with interest at the rate of 7% from August 8, 1947, plus 10% attorney's fees and costs.

The defendant Monroy having presented no answer, was defaulted. And conformably to the Rules, the Bank proved its allegations as to judgment and non-payment. However, the court ordered the dismissal of the action, holding that it had already prescribed since more than ten years had elapsed from May 1949 to March 1961.

The Bank seasonably appealed to this Court. Its brief extensively argues the proposition that as prescription was a defense and Monroy had made no answer, it is deemed waived; and the Court may not *motu proprio* apply it. To this argument, the appellee offered no reply because he had not been furnished a copy of the appellant's brief, because he had defaulted in the court below. He might conceivably insist that as the dates appeared on the face of the complaint, the point was rather a legal one which needed no specific mention in the pleadings.

This particular issue we do not need to discuss, for the reason that supposing the judge could *motu proprio* decide in accordance with the factual allegations of the complaint, and that consequently the judge could properly declare that "more than ten years have elapsed since judgment * * * was rendered in May 1949, nevertheless, he drew a mistaken legal conclusion therefrom—prescription—because the ten-year period of prescription is to be counted from the day the judgment became final;^[1] and the complaint made no allegation as to such date.

It was error, therefore, to declare that the plaintiff's action had prescribed. And as there is no question as to the terms of the judgment and the non-payment thereof, the defendant-appellee is hereby ordered to pay the appellant the sum of P12,000.00 with interest at 7% per annum beginning August 8, 1947, plus 10% as attorney's fees, and costs.

Bengzon, C. J., Padilla, Labrador, Concepcion, Reyes, J. B. L., Paredes, Regala and Makalintal, JJ., concur.

Mr. Justice Bautista, Mr. Justice Barrera and Mr. Justice Dizon took no part.

[1] Sec. 6, Rule 39; Phil. Nat. Bank vs. Silo, G.R. No. L-3498, March 19, 1951, and other cases cited in Moran,

Comments on the Rules of Court (1963 Ed.) Vol. II, p.250

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.