

PHILIPPINE NATIONAL BANK, PETITIONER, VS. HONORABLE ELIAS B. ASUNCION, FABAR INCORPORATED, JOSE MA. BARREDO, CARMEN B. BORROMEO AND TOMAS L. BORROMEO, RESPONDENTS.

G.R. No. L-46095. November 23, 1977

Ponente: MAKASIAR, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/3bf8f79f18f7/>

MAKASIAR, J.:

Philippine National Bank (hereafter referred to as the petitioner), on January 16, 1963, granted in favor of respondent Fabar Incorporated various credit accommodations and advances in the form of a discounting line, overdraft line, temporary overdraft line and letters of credit covering the importation of machinery and equipment. Petitioner likewise made advances by way of insurance premiums covering the chattels subject matter of a mortgage securing the aforementioned credit accommodations. Said credit accommodations had an outstanding balance of P8,449,169.98 as of May 13, 1977.

All of the above credit accommodations are secured by the joint and several signatures of Jose Ma. Barredo, Carmen B. Borrromeo and Tomas L. Borrromeo (private respondents herein) and Manuel H. Barredo. For failure of private respondents to pay their obligations notwithstanding repeated demands, petitioner instituted a case for collection against all private respondents and Manuel H. Barredo in a complaint dated October 31, 1972, and which was filed before the sala of the Honorable Elias B. Asuncion, Judge of the Court of First Instance of Manila, Branch XII (hereafter referred to as the respondent Court).

On May 19, 1975, before the case could be decided, Manuel H. Barredo died. In a Manifestation dated June 6, 1975, counsel for private respondents informed the respondent Court of said death.

Subsequently, respondent Court issued an Order of dismissal dated November 29, 1976, which is herein-below quoted as follows:

"In view of the death of defendant Manuel Barredo, the Court hereby dismisses this case since the present suit is for a money claim which does not survive the death of said defendant.

"Pursuant to the provisions of Section 6, Rule 86 of the Revised Rules of Court, which provides:

'Where the obligation of the decedent is solidary with another debtor, the claim shall be filed against, the decedent as if he were the only debtor, without prejudice to the right of the estate to recover contribution from the other debtor x x x.'

the claim of plaintiff may be filed with the estate proceedings of the decedent."

Petitioner thereupon filed a Motion dated December 14, 1976 praying for the reconsideration of respondent Court's Order dismissing the case as against all the defendants, contending that the dismissal should only be as against the deceased defendant Manuel H. Barredo.

In an order dated January 26, 1977, respondent Court denied petitioner's motion for reconsideration for lack of

meritorious grounds.

Hence, this instant petition for review on certiorari.

Petitioner, in its lone assignment of error, alleged that the respondent Court erred in dismissing the case against all the defendants, instead of dis-missing the case only as against the deceased defendant and thereafter proceeding with the hearing as against the other defendants, private respondents herein.

Petitioner's contention is well taken. Respondent Court's reliance on Section 6, Rule 86 of the Revised Rules of Court was erroneous.

A cursory perusal of Section 6, Rule 86 of the Revised Rules of Court reveals that nothing therein prevents a creditor from proceeding against the surviving solidary debtors. Said provision merely sets up the procedure in enforcing collection in case a creditor chooses to pursue his claim against the estate of the deceased solidary debtor. The rule has been set forth that a creditor (in a solidary obligation) has the option whether to file or not to file a claim against the estate of the solidary debtor. In construing Section 6, Rule 87 of the old Rules of Court, which is the precursor of Section 6, Rule 86 of the Revised Rules of Court, this Court said, in the case of *Manila Surety & Fidelity Co., Inc. vs. Villarama, et al.* (107 Phil. 891) that:

"It is evident from the foregoing that Section 6 of Rule 87 (of the Old Rules of Court) provides the procedure should the creditor desire to go against the deceased debtor, but there is certainly nothing in the said provision making compliance with such procedure a condition precedent before an ordinary action against the surviving debtors, should the creditor choose to demand payment from the latter, could be entertained to the extent that failure to observe the same would deprive the court jurisdiction to take cognizance of the action against the surviving debtors. Upon the other hand, the Civil Code expressly allows the creditor to proceed against any one of the solidary debtors or some or all of them simultaneously."

It is crystal clear that Article 1216 of the New Civil Code is the applicable provision in this matter. Said provision gives the creditor the right to "proceed against anyone of the solidary debtors or some or all of them simultaneously." The choice is undoubtedly left to the solidary creditor to determine against whom he will enforce collection. In case of the death of one of the solidary debtors, he (the creditor) may, if he so chooses, proceed against the surviving solidary debtors without necessity of filing a claim in the estate of the deceased debtors. It is not mandatory for him to have the case dismissed as against the surviving debtors and file its claim against the estate of the deceased solidary debtor, as was made apparent in the aforequoted decision. For to require the creditor to proceed against the estate, making it a condition precedent for any collection action against the surviving debtors to prosper, would deprive him of his substantive rights provided by Article 1216 of the New Civil Code.

As correctly argued by petitioner, if Section 6, Rule 86 of the Revised Rules of Court were applied literally, Article 1216 of the New Civil Code would, in effect, be repealed since under the Rules of Court, petitioner has no choice but to proceed against the estate of Manuel Barredo only. Obviously, this provision diminishes the Bank's right under the New Civil Code to proceed against any one, some or all of the solidary debtors. Such a construction is not sanctioned by the principle, which is too well settled to require citation, that a substantive law cannot be amended by a procedural, rule. Otherwise stated, Section 6, Rule 86 of the Revised Rules of Court cannot be made to prevail over Article 1216 of the New Civil Code, the former being merely procedural, while the latter, substantive.

Moreover, no less than the New Constitution of the Philippines, in Section 5, Article X, provides that rules promulgated by the Supreme Court should not diminish, increase or modify substantive rights.

WHEREFORE, JUDGMENT IS HEREBY RENDERED MODIFYING THE APPEALED ORDERS OF

RESPONDENT COURT DATED NOVEMBER 29, 1976 AND JANUARY 26, 1977 IN THE SENSE THAT AS AGAINST THE DECEASED MANUEL H. BARREDO, THE CASE IS DISMISSED, BUT AS, AGAINST ALL THE OTHER SOLIDARY DEBTORS, THE CASE IS REMANDED TO RESPONDENT COURT FOR FURTHER PROCEEDINGS.

NO COSTS.

SO ORDERED.

Teehankee, (Chairman), Martin, Fernandez, and Guerrero, JJ., concur.
Muñoz Palma, J., took no part.

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.