

**BUCRA CORPORATION, PETITIONER, VS. HIGINO B. MACADAEG,
JUDGE OF FIRST INSTANCE OF MANILA, AND ELIGIO GIRON,
RESPONDENTS.***G.R. No. L-2894. August 30, 1949*

Ponente: FERIA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/4451ebd6710b/>**FERIA, J.:**

This is a special civil action of certiorari filed with this Court by the petitioner against the respondent Judge Higinio Macadaeg of the Court of First Instance of Manila and Eligio Giron, to set aside the order of the respondent Judge requiring the petitioner to deposit in court the sum of P25,000, which the petitioner, as a garnishee in a civil action filed by the respondent Eligio Giron against Antonio C. Salcedo, claims to have in its possession to cover the obligation existing prior to the garnishment of the defendant Salcedo to the petitioner.

Section 10, Rule 59, which provides that the court may, after the examination of a debtor of the defendant, "order personal property capable of manual delivery belonging to the defendant, in the possession of the person so required to attend before the court, to be delivered to the clerk of the court, sheriff, or other officer on such terms as may be just," is applicable only in cases where indebtedness is admitted by the garnishee, or a personal property capable of manual delivery belonging to the defendant is in the possession of the person so required to attend before the court. But if the garnishee does not admit the indebtedness or makes a legal or equitable claim to the property or amount in his hands as in the present case, the controversy must be determined by action, as provided in section 41, Rule 39 of the Rules of Court. To compel the garnishee in the present case to deposit in court the amount of P25,000 in his possession notwithstanding its claim thereto, would be to deprive the petitioner of a property without due process of law.

The proceedings provided for in "sections 476, 481, 482 and 486 of the Code of Civil Procedure (from which sections 35, 37, 38, and 41 of Rule 39 were taken) are identical in principle with the proceeding for the citation of debtors explained in the chapter on attachment" (*Tayabas Land Co. vs. Sharruf*, 41 Phil., 382, 388), and therefore applicable to the present case, specially the provision of section 486 of the old Code of Civil Procedure, now section 41, Rule 39, of the Rules of Court.

Sec. 544 of the California Code of Civil Procedure is identical with section 432 of the old Philippine Code of Civil Procedure which, like most of the provision of our old Code touching attachment proceedings, was borrowed literally from the California Code, and the provisions of section 8, Rule 59, of our Rules of Court on effect of attachment of debts and credits were literally copied from said section 432 of our old Code of Civil Procedure. Under the provision of said section 8 of Rule 59 all persons having any personal property belonging to the defendant, or owing any debt to the defendant, at the time of the service of the order of garnishment, shall be, unless such property be delivered or transferred, or such debt be paid by him, to the clerk, sheriff or other officer of the court, liable to the plaintiff for the amount of such credit, property or debts, until the attachment be discharged.

And this Court in the case of Tee Bi & Co. vs. Chartered Bank of India, Australia and China, 41 Phil., 819, 822, quoted with approval the following syllabus in the case of Carter vs. Los Angeles National Bank, 116 Cal., 370-1;

"ATTACHMENT; GARNISHMENT; ACTION BY JUDGMENT CREDITOR AGAINST GARNISHEE.—After execution unsatisfied against the judgment debtor, the judgment creditor may bring an action at law against a garnishee upon whom notice was served under an attachment issued in the action before judgment; and it is not necessary before bringing such action that the garnishee should be required to appear and answer, or that an order should be obtained authorizing the action against the garnishee; and no equitable circumstance need be shown to justify the suit, which is upon direct liability of the garnishee to the plaintiff in that suit provided for in section 544 of the Code of Civil Procedure."

In view of all the foregoing, we hold that the respondent judge acted in excess of the jurisdiction of the court in issuing the order of March 16, 1949, requiring the petitioner to deposit the sum of P25, 000 in court, and that therefore said order, being null and void, is set aside with costs against the respondent Eligio Giron. (See Resolution of September 19, 1949.) So ordered.

Moran, C.J., Ozaeta, Paras, Bengzon, Padilla, Tuason, Montemayor, and Reyes, 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.