

**CORAZON M. VDA. DE TRIVIÑO AND CECILIO G. ROQUE,
PETITIONERS, VS. NEMESIO GUBATAN, ANDRES SORIANO,
EMETERIO IBAYAN AND HON. RAMON A. YCASIANO, AS JUDGE OF
THE MUNICIPAL COURT OF...**

G.R. No. L-3556. January 31, 1950

Ponente: BENGZON, J.

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BENGZON, J.:

In June, 1949 the petitioners filed in the municipal court of Manila a complaint for the ejectment of respondents Nemesio Gubatan, Andres Soriano and Emeterio Ibayan from two residential lots, known as Nos. 168-A, 168-B and 166-C, Lardizabal Street, Sampaloc.

At the hearing of the case, and upon agreement of the parties, a judgment was rendered by respondent judge ordering that the defendants shall vacate the premises after the expiration of six months from September 1, 1949, provided that they shall pay monthly rentals of P20.00, beginning from said date, and declaring that failure of the defendants to pay monthly rentals as thus fixed, shall entitle the plaintiff to ask for execution of judgment.

On October 11, 1949 herein petitioners moved for execution because the defendants had failed up to that time to pay the rental for September. A writ of execution was issued on October 18. However, on October 22, 1949, respondent Gubatan filed a so-called "Ex-parte petition to suspend execution", alleging that none had gone to him for collection of the rentals, which he thereafter tendered to the court.

The respondent judge suspended the execution. A motion to reconsider failed. Hence this petition.

It is clear, in our opinion, that execution was in order. The rents for September should have been paid in that month, or at most within the first ten days of October. Upon failure of respondents to pay, the petitioner's right to execution arose. The trial judge had no power to give respondents additional time to make good. In this view of the case, it becomes unnecessary to discuss the other points raised by petitioners.

The order of suspension of execution must be, and is hereby, annulled. So ordered.

Moran, C.J., Ozaeta, Paras, Pablo, Padilla, Tuason, Montemayor, Reyes, and Torres, JJ., concur.

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