

ONG SU HAN, PETITIONER, VS. TAN ENG GEE, ET AL., RESPONDENTS.*G.R. No. L-610. August 09, 1946*

Ponente: BENGZON, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/609208ffca5c/>**BENGZON, J.:**

For the third time, petitioner Ong Su Han recurs to this Court endeavoring to block execution of the decision of the Manila Court of First Instance that orders him to vacate the premises of respondent Tan Eng Gee on Magdalena street Issued last December, the writ of execution has not been carried out by reason of the two petitions for certiorari, mandamus and injunction he filed here on January 5 and January 29, 1946. The first, (G. R. No. L-214) was denied summarily. The second, (G. R. No. L-265) was given due course, but was equally denied on April 24, 1946, with the decree that "Tan Eng Gee may forthwith have his execution."

The instant proceeding is founded upon the allegations, (1) that after the last decision of this Court, i.e. , on April 30, 1946, Ong Su Han asked, and Tan Eng Gee agreed, that he be allowed to remain in the house until August 3L, 1946, and, (2) that before the expiration of such period the latter violated the contract, requesting the sheriff on June 11, 1946 to effectuate the ejectment order.

Respondent traverses the reported agreement; and asserting that this litigation is merely another trick to postpone execution of his judgment by means of fraudulent representations, asks for damages and treble costs.

In view of the issue of fact raised in the pleadings, we designated a commissioner to whom the parties submitted their respective evidence. Before this officer, petitioner declared, under oath, that after losing his last case, G. R. No. L-265, he interviewed his counsel, Atty. De Guzman, and authorized him to prepare a motion for reconsideration; that afterwards, on April 30, 1946, he had a conversation with Tan Eng Gee, who said that if he will not ask a reconsideration of said case, he, (Tan Eng Gee) will give him three months* time to get out; that he bargained for four months; that Tan Eng Gee replied he will think it over; that in the afternoon of that day, upon reaching home, he was handed by his wife the letter in Chinese characters, Exhibit B, which, as translated, reads:

"Mr. Ong Su Han: This morning we two spoke about the house at No. 911 Magdalena. You told me that you want until August 31, to stay in the house. After having thought it over, now I am answering your proposition but you must not file any more a motion for reconsideration. But you must always pay the monthly rental, of the house up to the time you vacate it. On August 31 the house shall be completely vacated. (Sgd.) Tan Eng Gee."

He further swore that no motion to reconsider was filed in G. R. No. L-265 because of the agreement.

Ong Su Han's attorney testified in corroboration. He said, in brief:

"I was preparing the motion for reconsideration when on one afternoon, about six o'clock in the evening already, I received a note from Mr. Ong Su Han requesting me not to prepare any more the motion for

reconsideration because he has already agreed to the owner of the house that he was permitted to stay in the said house for some more months."

For the respondents, Tan Eng Gee declared that he had no conversation with the petitioner on April 50, 1946. He denied having sent the letter Exhibit B, or having agreed to give him further time to evacuate. His answer to the petition contains these sworn assertions:

"x x x to the petition for execution of the judgment of ejection filed by the petitioner in the lower court after the judgment of this Supreme Court in SC-G. R. No. L-265 had become final and executory, notice of hearing of which petition was duly served on the counsel of petitioner, the petitioner has filed no opposition whatsoever;

"x x x after the issue of the writ of execution or on June 9, 1946, deputy sheriff Getulio Pantoja gave the petitioner two days' time within which to vacate the premises but the petitioner never mentioned to him that there was such alleged agreement of April 30, 1946 allowing him to stay in the premises until August 31, 1946;

"x x x upon the expiration of the two days'-period or on June 11, 1946, deputy sheriff Getulio Pantoja returned to the premises to carry out the writ of execution and again the petitioner alleged the sickness of his wife but never mentioned the supposed agreement of April 30, 1946;

"x x x on the same day, the petitioner appealed to the sheriff of Manila (Mr. Joaquin Garcia) and to the respondent-Judge of the Court of First Instance and, in said appeal, never alleged any supposed agreement of April 30, 1946;"

The above assertions are fully confirmed by an affidavit of the Honorable Jose Gutierrez David and of deputy sheriffs Joaquin Garcia and Getulio Pantoja. They are not contradicted by petitioners proof.

Under the circumstances, we are constrained to conclude that no such prolonged stay was ever stipulated. Had Ong Su Han obtained an extension of time from his landlord, he would have mentioned it first and last, and all the time, when the sheriffs tried to drive him out. He would have eagerly shown the letter Exhibit B, for it was a perfect defense, manifest and obvious even to a Chinaman.

Wherefore, we are satisfied that this is another dilatory scheme of Ong Su Han.

Accordingly, the proceeding is dismissed, with treble costs in favor of the respondent, Tan Eng Gee.

So ordered.

Moran, C.J., Paras, Feria, Pablo, perfecto, Hilado, Briones, Padilla, and Tuason, 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.