

IN THE MATTER OF THE INTESTATE ESTATE OF TIRSO LORENZO (TAN CHIU) & CECILIA ALBA, DECEASED. TAN SEE SENG & IGNACIO LORENZO, PETITIONERS-APPELLEES VS. LUZON SURETY COMPANY, INC.,...

G.R. No. L-19620. August 29, 1975

Ponente: CONCEPCION, JR., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/62ce1577ae88/>

CONCEPCION, JR., J.:

This is an appeal interposed by the Luzon Surety Company, Inc. from the judgment of the Court of First Instance of Zamboanga dismissing its claim in Special Case No. 485.

It appears that on May 18, 1956, Tan Gin San, plaintiff in Civil Case No. 610 of Zamboanga[1], as principal, and the Luzon Surety Co., Inc., as surety, executed a "Plaintiff's Bond for Manual Delivery of Personal Property" in the amount of P144,000.00 for the prosecution of the action, the return of the property to the defendant if return be adjudged, the payment to defendant of such sums as may be recovered from the plaintiff, and the costs of the action. On that same date, Tan Gin San, Narciso A. Tan, and Tirso Lorenzo executed an Indemnity Agreement, in favor of the Luzon Surety Co., Inc., binding themselves, jointly and severally, to pay the said surety company the sum of P3,000.00, as premium on the plaintiff's bond, and to indemnify the said surety company and save it harmless against any and all damages, losses, costs, stamps, taxes, penalties, charges, and expenses of whatever kind and nature which the surety company shall sustain or incur in consequence of its having become the surety upon the said plaintiff's bond.

On November 16, 1956, upon the filing of a counterbond by defendant Rosalia Tan, in said Civil Case No. 610, the Court of First Instance of Zamboanga issued an Order for the return of the property in question to the said defendant, and on January 3, 1957, the Sheriff turned over the possession of the property to the defendant Rosalia A. Tan.

Tirso Lorenzo died during the pendency of said Civil Case No. 610 and Special Case No. 485 was instituted to settle his estate.

On August 8, 1957, the Luzon Surety Co. Inc. filed a claim with the probate court for payment of the sum of P144,000.00, plus interest thereon and attorney's fees, as well as the sum of P3,045.00 per annum as premiums and stamps for the plaintiff's bond, commencing from May 18, 1957 until the said bond is cancelled and the surety company relieved from liability.

Tan See Seng, administratrix of the Intestate Estate of the late Tirso Lorenzo, opposed the claim on the ground that the bond in question had already been released because the building referred to in the bond had been returned to the defendant in Civil Case No. 610.

On June 6, 1961, after a hearing, the probate court issued an order dismissing the claim of the surety company. A motion to reconsider this order was filed by the surety company, but the said motion for reconsideration was

denied.

Hence, this appeal.

The principal contention of the claimant-appellant surety company is that the plaintiffs bond co-exists with the pendency of Civil Case No. 610 wherein it is filed and is not cancelled by the filing of a counter bond by the defendant and the return of the property seized, and since Civil Case No. 610 is still pending and the risk for which the bond had been filed still exists, the estate of the late Tirso Lorenzo may be held liable for the contingent claim and unpaid premiums on the bond under the terms of the indemnity agreement.

The appellees upon the other hand maintain that the cancellation of the plaintiffs bond and the indemnity agreement was effected not only by the express request of the plaintiff in Civil Case No. 610, but also by the actual return of the personal property seized; and that the question of whether or not the plaintiffs bond in question is subsisting is academic since Civil Case No. 610 has been dismissed without costs by the Court of First Instance of Zamboanga. For reference, the appellees incorporated in their brief a certificate of the Clerk of the Court of First Instance of Zamboanga.[2]

The issues being moot and academic, the appeal is hereby DISMISSED without pronouncement as to costs.

SO ORDERED.

Makalintal, C.J., Fernando, Barredo, and Aquino, JJ., concur.

[1] An action for Replevin, entitled: Tan Gin San, plaintiff, vs. Rosalia A. Tan, as Administratrix of the Intestate of Tan Chan, Deceased, defendant.

[2] See also p. 25, rollo.

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.