

**PEDRO CUETO, PLAINTIFF AND APPELLEE, VS. BLANCA COLLANTES, CHIU CHO ALIAS ATOY AND JOSE CONTRERAS, DEFENDANTS AND APPELLANTS.***G.R. No. L-7483. July 25, 1955*

Ponente: BAUTISTA ANGELO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/67b42b8f3529/>**BAUTISTA ANGELO, J.:**

On February 17, 1951 the Court of First Instance of Camarines Sur rendered a judgment in Civil Case No. R-90 (1) declaring that the plaintiff is entitled to repurchase the lands in litigation within the period of ninety days "from the time this judgment shall become final, otherwise the right shall be lost forever"; and (2) ordering the plaintiff to deliver to defendant Blanca Collantes 20 cavanese of palay a year beginning 1945 until he shall have effected the repurchase or until he delivers the lands, and to deliver to defendant Chiu Cho 38 1/2 cavanese of palay for the year 1945 and thereafter at the rate of 200 cavanese a year until plaintiff pays the repurchase price or until he delivers the land.

Plaintiff having appealed from this decision, the Court of Appeals affirmed the same with a slight modification with regard to the amount of the counterclaim adjudicated to defendant Chiu Cho, said amount having been reduced from P2,042.01 to P2,034.01. This judgment was finally entered by the clerk of court on July 8, 1953. On June 29, 1953, plaintiff filed a petition for review by certiorari with the Supreme Court, which was dismissed by the latter in a resolution dated July 16, 1953. Copy of this resolution was received by plaintiff's counsel on July 22, 1953. Plaintiff not having filed a motion for reconsideration, the clerk of court made the entry of final judgment on August 7, 1953.

In the meantime, Pedro Cueto, the plaintiff, assigned his right to repurchase to his brother Lucilo Cueto and, on October 17, 1953, after the record of the case had been remanded to the trial court, the two brothers, Pedro and Lucilo, deposited with the clerk of court the redemption price in the amount of P4,656.60 and filed with the court a joint motion praying that the defendants be required to execute the deed of reconveyance of the lands and to deliver the certificate of title covering the same with the request that, should they fail to do so within the period to be fixed by the court, the Register of Deeds be authorized to issue a new certificate of title and, thereafter, execute the deed of reconveyance as required in the original decision.

This motion was opposed by the defendants on the main ground that the attempt made by the plaintiff to exercise his right of redemption was made beyond the 90-day period from the entry of final judgment of the Court of Appeals contrary to the decision of the court of origin. But the court overruled this opposition and granted the motion in an order entered on October 30, 1953. This is the order which is now the subject of the present appeal.

The only error assigned by appellants refers to the finding of the lower court that plaintiff can still exercise his right of redemption notwithstanding the expiration of the 90-day period fixed in the original decision and, therefore, defendants should execute the deed of reconveyance required in said decision. Appellants contend that, the final judgment of the Court of Appeals having been entered on July 8, 1953, the 90-day period for the exercise

of the right of redemption has long expired, it appearing that plaintiff deposited the redemption money with the clerk of court only on October 17, 1953, or after the expiration of 101 days. Appellee brands this computation as erroneous, or one not in accordance with the procedure prescribed by the rules of court.

Appellee's contention should be sustained. The original decision provides that appellee may exercise his right of redemption within the period of 90 days from the date the judgment has become final. It should be noted that appellee has appealed from this decision. The decision was affirmed by the Court of Appeals and final judgment was entered on July 8, 1953. Does this mean that the judgment became final on that date?

Let us make a little digression for purposes of clarification. Once a decision is rendered by the Court of Appeals a party may appeal therefrom by certiorari by filing with the Supreme Court a petition within 10 days from the date of entry of such decision (Section 1, Rule 46). The entry of judgment is made after it has become final, i.e., upon the expiration of 15 days after notice thereof to the parties (Section 8, Rule 53, as modified by a resolution of the Supreme Court dated October 1, 1945). But, as Chief Justice Moran has said, "such finality \* \* \* is subject to the aggrieved party's right of filing a petition for certiorari under this section", which means that "the Court of Appeals shall remand the case to the lower court for the execution of its judgment, only after the expiration of ten (10) days from the date of entry of such judgment, if no petition for certiorari is filed within that period." (1 Moran, Comments on the Rules of Court, 1952 ed., p. 950.) It would therefore appear that the date of entry of the judgment of the Court of Appeals is suspended when a petition for review is filed to await the final entry of the resolution or decision of the Supreme Court.

Since in the present case appellee has filed a petition for review within the reglementary period, which was dismissed by resolution of July 6, 1953, and for lack of a motion for reconsideration the entry of final judgment was made on August 7, 1953, it follows that the 90-day period within which appellee may exercise his right of redemption should be counted from said date, August 7, 1953. And appellee having exercised such right on October 17, 1953 by depositing the redemption money with the clerk of court, it is likewise clear that the motion be filed for the exercise<sup>^</sup> of such right is well taken and is within the purview of the decision of the lower court.

The fact that such right was assigned by appellee to his brother Lucilo is of no moment for there is nothing in the record to show that the same was done to the prejudice of appellants.

The order appealed from is affirmed, with costs against appellants.

Bengzon, Acting C.J., Padilla, Montemayor, Reyes, A., Jugo, Labrador, Concepcion, and Reyes, J. B. L., 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.