

MERCY ALMONIDOVAR DE VERA AND JUAN DE VERA, PETITIONERS, VS. REPUBLIC OF THE PHILIPPINES AND THE COURT OF APPEALS, RESPONDENTS.

G.R. No. L-32998. July 12, 1973

Ponente: MAKALINTAL, Actg. C.J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/6b0928ec892b/>

MAKALINTAL, Actg. C.J.:

This is an original action for certiorari, mandamus and prohibition mainly to annul the resolution dated June 10, 1970 of the Court of Appeals in its C.A.-G.R. No. 29578-R, as well as the subsequent resolutions dated August 18, 1970 and November 26, 1970, denying the petitioners' motions for reconsideration; and to declare as valid the resolution dated December 18, 1969.

On April 13, 1959 the Republic of the Philippines, represented by the Director of Lands, filed a complaint in the Court of First Instance of Manila against Mercy Almonidovar and Juan de Vera for collection of unpaid rentals and termination of the lease contract covering a parcel of land owned by the plaintiff, described and identified as Lot No. 12-A-1, Block 2201 (Fls-1), of the San Lazaro Estate, Manila. After trial the court rendered its decision, dated May 18, 1961, of which the dispositive portion reads:

"IN VIEW OF THE FOREGOING, the Court hereby orders defendant Mercy Z. Almonidovar to pay plaintiff the sum of TWENTY-FIVE THOUSAND FOUR HUNDRED EIGHTY-SIX PESOS AND SIXTY-FIVE CENTAVOS (P25,486.65) as back rentals of plaintiff's lot up to December 31, 1960, with interest at the legal rate from the date of the filing of the complaint, a further sum of TWO THOUSAND ONE HUNDRED FIFTY-FIVE PESOS (P2,155.00) per quarter beginning January 1, 1961 and costs. In default of payment of the back rentals of P25,486.65 within three months, the lease agreement Exhibit "A" is declared terminated and the plaintiff may take possession of the leased lot together with all the buildings and improvements made thereon by the defend-ants."

From the foregoing judgment the defendants appealed to the Court of Appeals.

On August 7, 1968 the appellate court affirmed. A copy of its decision was sent by registered mail to Atty. Lino M. Patajo, counsel of record for appellants, at the Baltao Building located at 3267 V. Mapa St., Sta. Mesa, Manila, and was received by a certain "Soriano" on August 10, 1968, as shown in the registry return card. On August 27, 1968 entry of judgment was made and on November 20, 1968 the record of the case was remanded to the trial court.

On January 27, 1969 the appellants filed a petition alleging, among other things, that neither they nor their counsel received a copy of the decision in C.A.-G.R. No. 29578-R; that the person who appeared to have received said copy by registered mail was not authorized to do so by their counsel; that they came to know of the decision sometime during the first week of January 1969, when they were asking for a statement of account from the Office of the Secretary of General Services; and that they had no intention to file any motion for reconsideration of the decision nor to appeal therefrom by certiorari to the Supreme Court as they were resigned to accepting the

decision, but would like to petition the Court to have the date of entry of the judgment corrected in the sense that the finality of the decision be computed from the date they actually received a copy thereof or came to know of the same. They therefore prayed that "for the purpose of computing the three-month period within which the defendants may pay the back rentals under the lease contract in question, pursuant to the judgment of the lower court, as affirmed by this Court, (that) the judgment of this Court be con-sidered as entered only on January 22, 1969, or thereabouts which would be approximately 15 days from the first week of January 1969, when defendants actually learned of the decision of this Court and that the tender or offer of payment be considered as made within said period of three months or that for purposes of compliance with the Judgment of this Honorable Court that said tender of payment be con-sidered as substantial compliance with the judgment of this Honorable Court regarding the updating of the payment of back rentals."

The tender or offer of payment adverted to in the petition was the remittance made by appellants on January 20, 1969 of TMBC Check No. A-45995 in the sum of P58,346.64 supposedly to cover the payment of back rentals up to December 1960. The check was received by the Cashier's Office of the Bureau of Building and Real Property Management on February 10, 1969, for which Official Receipt No. 7374577 was issued. When presented for payment, however, the check was dishonored, so it had to be replaced by the appellants with MBC Cashier's Check No. C-39560, which was deposited on March 4, 1969.

In a minute resolution dated February 25, 1969, the Court of Appeals denied the appellants' petition. On March 20, 1969 the appellants, through a new counsel, moved to reconsider the resolution and asked the Court to issue another one commanding the parties to present evidence in order to determine whether or not the person appearing to have received the registered mail containing the copy of the decision was authorized for that purpose by their former counsel. By resolution of April 22, 1969 the appellants were again turned down. With leave of court, the appellants filed a second motion for reconsideration, which was favorably acted upon. As prayed for, the appellate court ordered that the matter regarding the service of the decision be investigated by its Judicial Officer.

Based on his finding that the appellants' former counsel did not receive the decision in question, the investigator recommended that the second motion for reconsideration be granted; that the entry of Judgment be cancelled; that the record of the case be recalled from the lower court; and that a copy of the decision be sent to the new counsel of the appellants. In its resolution of December 18, 1969, the appellate court adopted the foregoing recommendations of its Judicial Officer. The appellee, through the Solicitor General, moved to reconsider. Holding in effect that there was a valid service of a copy of its decision on the appellants' former counsel on August 10, 1968, the Court of Appeals in its resolution dated June 10, 1969 set aside its resolution of December 18, 1969 and maintained its resolutions of February 25, 1969 and April 22, 1969.

Unable to obtain a reconsideration, the appellants instituted the instant petition, alleging among other things that the Court of Appeals acted with grave abuse of discretion in holding that there was a valid service of a copy of its decision on their former counsel on August 10, 1968 and in setting aside its resolution dated December 18, 1969.

After this case was deemed submitted for decision, the Solicitor General moved to dismiss on the following grounds, namely:

"x x x, (a) the instant proceeding is clearly dilatory; (b) the resolution of the issues presented in this petition, to wit, whether there was valid service of decision on defend-ants-appellants' counsel on August 10, 1968, will serve no useful purpose considering:

- The admission of petitioners that they have come to know of the decision in the first week of January 1969;
- Their manifestation that they do not intend to appeal from the decision of the Court of Appeals; and

- Their acceptance of the decision by paying P58,346.64 on March 5, 1969."

The Solicitor General also alleges that even assuming that entry of judgment should be as of January 22, 1969, as prayed for by the petitioners in their petition of January 27, 1969, they nevertheless have not complied with the judgment, because they have not made any further payment of rentals since the one they made on March 4, 1969, which then still left an unpaid balance of P29,092.51.

We sustain the motion for dismissal. If the petitioners had really intended to comply with the judgment of the Court of First Instance, they should have cleared all their back accounts upon learning of the decision of the Court of Appeals affirming said judgment, as well as kept their payments up to date during the pendency of the instant case in this Court. It appears, however, that even after applying the sum of P58,346.64 paid on March 4, 1969, the petitioners still owed an outstanding balance of P29,092.51 as of that time, which still increased to P77,580.01 by December 31, 1972, no further payment having been made in the interim. The petitioners try to justify their failure to update their account by saying that they did offer to pay but were refused. The excuse deserves scant consideration. If indeed their offer was refused, they should have resorted to judicial deposit of the corresponding amounts. This they did not do.

Considering the circumstances of this case, we agree with the Solicitor General that the resolution of issues raised here will serve no practical purpose.

WHEREFORE, the instant petition is hereby dismissed, without pronouncement as to costs.

Zaldivar, Ruiz Castro, Fernando, Teehankee, and Barredo, JJ., concur.

Makasiar, Antonio, and Esguerra, JJ., took no part.

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.