

**CESAR B. VILLANUEVA, PETITIONER, VS. JUDGE NUMERIANO G. ESTENZO, CFI OF ZAMBALES, BRANCH I, OLONGAPO CITY, AND JESUS RAMOS, RESPONDENTS.***G.R. No. L-30050. June 27, 1975*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/7214cd35c649/>**ANTONIO, J.:**

This petition for certiorari seeks to annul and/or modify the final judgment rendered by respondent Judge Numeriano G. Estenzo of the Court of First Instance of Zambales, Branch I, Olongapo City, in Criminal Case No. 4480.

The records show that after a protracted trial of Criminal Case No. 4480[1] which lasted for about six (6) years mostly due to numerous postponements asked by the accused Jesus Ramos and his counsel, the case was submitted for decision to Judge Lucas Lacson sometime in September 1966. Over two (2) years later, a notice, dated October 17, 1968 (Annex "B", Petition), was sent to the Provincial Sheriff of Zambales commanding him to notify the accused Jesus Ramos and/or his bondsmen that the accused must appear before the court on October 30, 1968 at 8:00 a.m., for promulgation of judgment in Criminal Case No. 4480.[2] Petitioner Cesar B. Villanueva, brother of the deceased Arnulfo Villanueva and who appeared as private prosecutor in said criminal case, received also a copy of said notice.

For failure of the accused to appear on the date of the promulgation of judgment, Judge Manuel R. Pamaran (who was temporarily presiding at that time, Judge Lucas Lacson being then on terminal leave), finding unsatisfactory the accused's explanation, issued on the same day an Order for his arrest and reset the promulgation of judgment on November 11, 1968 at 8:30 a.m. (Annex "C", Petition.)

On November 4, 1968, pursuant to Administrative Order No. 276 of the Department of Justice, which was duly approved by this Court in its Resolution of November 11, 1968, respondent Judge Numeriano G. Estenzo was assigned to the Court of First Instance of Zambales, Branch I, Olongapo City, "for a period of not more than three months beginning November 12, 1968, or as soon thereafter as practicable, for purpose of trying all kinds of cases and to enter judgment therein."

On November 11, 1968, Judge Pedro D. Cenzon, who was then presiding (Judge Manuel R. Pamaran having left), received a telegraphic motion for postponement by the accused Jesus Ramos, and, for the reasons stated therein, issued an Order (Annex "D", Petition) resetting the promulgation of judgment to November 25, 1968 at 8:30 a.m., and warning the accused that no further postponement would be entertained by the court.

On November 25, 1968, upon the failure of the accused to appear for the promulgation of judgment, Judge Numeriano G. Estenzo, who was then assigned to said sala pursuant to Administrative Order No. 276, issued an Order (Annex "E", Petition) for the arrest of the accused and the confiscation of the bail bond for his personal liberty, requiring the bondsmen to produce the accused on December 20, 1968 at 7:30 a.m., and stating that the promulgation of the decision shall be set as soon as the accused is surrendered to the court. The warrant of arrest was never served and/or executed for the reason that the accused could not be located. On December 1, 1968,

Judge Lucas Lacson, who had been on terminal leave, retired from the judicial service. According to respondent Judge, sometime on December 2, 1968, he was informed that the decision of Judge Lacson in the case had never been promulgated. Consequently, it became his duty to prepare the decision on the basis of the record before him.

On January 2, 1969, the accused Jesus Ramos, assisted by his counsel, presented himself before respondent Judge Numeriano G. Estenzo and asked for the immediate promulgation of the decision. Acting on his petition, respondent Judge promulgated the questioned decision dated December 7, 1968 (Annex "F", Petition, Record, pp. 15-25), imposing upon the accused the penalty, among others, of three (3) months imprisonment.[3] After the promulgation of said decision, the accused then manifested in open court that he was then ready to serve the sentence and the respondent Judge issued on the same date, January 2, 1969, the corresponding Order of Commitment (Annex "5", Answer; Record, p. 46). Immediately thereafter, respondent Jesus Ramos began serving his sentence.

Petitioner, having learned of the decision of respondent Judge, instituted the present petition for certiorari on January 17, 1969, contending, among others, that in so changing the decision of Judge Lucas Lacson and in rushing the promulgation of his own decision in a case he never heard, the respondent Judge had acted without or in excess of his jurisdiction and committed a grave abuse of discretion.

Pursuant to this Court's Resolution, respondent Judge Numeriano G. Estenzo filed on February 7, 1969 his answer to the petition for certiorari, alleging, among others, (1) that he considered it his duty to prepare the decision since the case had long been submitted for decision and he made and promulgated the questioned decision in the regular performance of such duty in accordance with the dictates of his conscience, in lieu of the decision of the former incumbent judge which has already become a nullity since any decision of a retired judge not promulgated during his incumbency has no longer any binding force and effect (citing *People vs. So*, G.R. No. L-8732, July 30, 1957, 101 Phil. 1257; *People vs. Court of Appeals, et al.*, G.R. Nos. L-9111-9113, August 28, 1956, 99 Phil. 787); and (2) that he made the decision only after a thorough, diligent and mature study of the whole record of the case, together with all the exhibits, transcripts of stenographic notes and memoranda of the parties; that the Assistant Provincial Fiscal, who was present at the promulgation of the judgment, neither moved for a reconsideration of said decision nor objected to immediate service of the sentence by the accused.

On March 17, 1969, petitioner filed his reply, asserting, among others, that in view of the nature of the assignment of respondent Judge, he should have refrained from deciding cases which he never heard, but should have left such cases to be decided by a judge permanently appointed to said court.

On April 11, 1969, private respondent Jesus Ramos also filed his answer to the petition, asserting (1) that petitioner has no cause of action as he is not the real party in interest, as what he "seeks to annul or modify is not the civil liability of the accused but the penalty of 3 months of *arresto mayor*" imposed by the court upon the accused, over which portion, the private prosecutor has no interest whatsoever, and in any event, the questioned decision has become final as the respondent Jesus Ramos had served already his sentence, as shown by a certificate of discharge from prison (Annex "A", Ramos' Answer)[4] and therefore, beyond the power of any court to modify or alter;[5] and (2) that to give due course to the present petition would place said respondent "in jeopardy of being sentenced again for the same offense for which he has already been convicted and served sentence."

There is no question that the decision which was signed on October 10, 1968 by Judge Lucas Lacson, but not promulgated prior to his retirement on December 1, 1968, has no longer any binding force and effect. It is well settled that to be binding, a judgment must be duly signed and promulgated during the incumbency of the judge who signed it.[6]

While petitioner concedes that the decision made by the previous judge has no longer any legal effect, he nevertheless insists that the judgment rendered by respondent is void because he has not heard the witnesses when they gave their testimony, as the case was fully heard by the previous judge of said court.

The issue, therefore, is whether respondent Judge could, on the basis of the record before him, validly promulgate a judgment over a case which he has not fully or partly heard.

As early as *Ortiz vs. Aramburo, et al.* case,[7] We ruled that there is no provision of law which would preclude a judge of the Court of First Instance from deciding a case on the basis of the oral and documentary evidence presented before the first judge who resigned from the service without deciding the case, which oral evidence was taken by a stenographer and was produced before the second judge.

"This objection can not be sustained. The law requires cases to be tried by the Court of First Instance. There is no provision of law which prohibits a judge from deciding a case because he did not see some of the witnesses when they testified therein. In the absence of any express prohibition of this kind, we can not imply one. During the Spanish domination, it was the invariable practice for the judges of the Courts of First Instance to decide cases whether the evidence was taken before them or not. Our present Code of Civil Procedure authorizes the same practice in several instances. It authorizes the presentation of evidence by depositions, and it might well happen that all the evidence in the case would consist of such depositions and that the judge who decided it would see none of the witnesses. Section 505 of the Code of Civil Procedure provides that when a new trial is ordered by the Supreme Court 'all the evidence taken upon the former trial, which is competent and admissible, shall be used upon the new trial without retaking, but additional evidence may be presented upon the second trial by either party.' Section 504 of the same code provides that when a new trial is ordered the Supreme Court may direct that it be had before a judge other than the one who tried the case before. This is an express authority for the judge of the Court of First Instance to decide a case upon oral evidence which was not taken before him.

"Section 497 of the same code provides that when a motion for a new trial is made in the court below on the ground of the insufficiency of the evidence, and denied, this court may review the evidence and enter a final judgment. This expressly authorizes us to decide questions of fact upon evidence which was not taken before us."

This rule is rooted in practical considerations. Sometimes it is an impossibility for the judge who tried the case to be the same judicial officer to decide it. The judge who tried the case may die, resign or retire from the bench before he could render judgment thereon. In that case, We find no legal impediment to his successor's continuing with the trial or rendering judgment on the basis of the evidence submitted if the trial has been terminated. It is sufficient that in such circumstances the judge, in deciding the case, must base it completely on the cold record before him, in the same manner as appellate courts when they review the evidence of the case raised to them on appeal. This conclusion is supported by the weight of authority on the matter[8] and by settled judicial practice.[9]

There cannot be any doubt on the authority of the respondent Judge to decide the case. Pursuant to Administrative Order No. 276, dated November 4, 1968, of the then Secretary of Justice Claudio Teehankee, now Associate Justice of this Court, respondent Judge was assigned, pursuant to Section 51 of the Judiciary Act, to Olongapo City for a period of not more than three (3) months, beginning November 12, 1968, for the purpose of trying all kinds of cases and entering judgments therein. This Administrative Order No. 276 was duly approved by this Court in its Resolution of November 11, 1968. Respondent Judge Numeriano G. Estenzo was, therefore, duly authorized to act in Criminal Case No. 4480, because this authority is sufficiently broad to authorize not only the holding of trials, but also the decision, on the basis of the evidence adduced, of cases already submitted.[10]

Pursuant to Section 51 of the Judiciary Act of 1948, as amended, cited in said Administrative Order No. 276, any

of the parties in said criminal case could have objected to respondent Judge taking cognizance of the case, and if the objection is sustained by this Court, respondent Judge would have been disqualified from deciding the case. But in the case at bar, there was no such objection interposed by the parties appearing in the record.

Considering that Criminal Case No. 4480 was among those cases which had been submitted for decision for over nine (9) months at the time Judge Lucas Lacson retired on December 1, 1968, it was to the public interest that the same be decided by the respondent Judge.

In any event, the judgment rendered could no longer be altered or modified. Pursuant to Section 7 of Rule 120 of the Revised Rules of Court, a judgment in a criminal case becomes final when the sentence has been partially or totally served.[11] In the case at bar, respondent Jesus Ramos had already served his sentence of three (3) months imprisonment and had been released from prison on January 21, 1969. Before a judgment becomes final, the trial court has plenary power to alter or revise the same in accordance with the requirements of law and justice. However, when the sentence imposed upon the accused has already become final, it can no longer be reopened with the end in view of modifying the sentence. Such a move cannot be entertained as it will place the accused twice in jeopardy for the same offense.[12]

WHEREFORE, the instant petition for certiorari should be, as it is hereby, dismissed. Costs against petitioner Cesar B. Villanueva.

Barredo, Aquino, and Concepcion, Jr., JJ., concur.

Fernando, J., (Chairman), concurs in the result.

---

[1] Entitled "People of the Philippines, Plaintiff, vs. Jesus Ramos, Accused."

[2] This refers to the unpromulgated decision, dated October 10, 1968, signed by Judge Lucas Lacson.

[3] The dispositive portion of the decision, dated December 7, 1968, of respondent Judge Estenzo, reads:

"WHEREFORE, the Court finds the accused guilty beyond reasonable doubt of the crime of homicide, and appreciating in his favor the mitigating circumstances of incomplete self-defense and voluntary surrender as well as lack of intention to commit so grave a wrong as that committed, the Court imposed on the accused Jesus Ramos penalty of THREE (3) MONTHS of arresto mayor in its medium period and to indemnify the heirs of the victim in the sum of P12,000.00 with subsidiary imprisonment in case of insolvency, the same not to exceed one-third of the principal penalty, and to pay the costs.

The weapon used in the commission of homicide is ordered confiscated in favor of the government.

The accused is credited with one-half preventive imprisonment." (Record, pp. 15-25.)

[4] The Certificate of Discharge from Prison, dated January 21, 1969 and signed by Felix G. Abaya, Provincial Warden has the following entries: "Prisoner's Name JESUS RAMOS; Prison No. 3937; Class Sentenced, was sentenced January 2, 1969 by the CFI Branch I, Olongapo City to suffer three (3) months and an indemnity in the amount of P12,000.00 or subsidiary imprisonment, for HOMICIDE is released from confinement this date, Jan. 21, 1969, for his preventive imprisonment is more than the penalty imposed upon him by the court. Time Out: 5:00 p.m."

[5] Citing *People vs. Buyson Lampa*, 58 Phil. 757, and *U.S. vs. Ballard, et al.*, 35 Phil. 14.

[6] In *Lino Luna vs. Rodriguez* (37 Phil. 186), Judge Alberto Barretto of the Court of First Instance of Rizal signed his decision in an election contest for the office of governor of Rizal on January 14, 1917; two days later

(January 16), he qualified as Secretary of Finance thereby retiring from the judiciary; and on January 17 his decision was promulgated. This Court held such decision was null and void, because at the time of the promulgation, Judge Barretto was no longer a judge either de jure or de fact. (See also *Garchitorena vs. Crescini*, 37 Phil. 675; *Rodriguez vs. Commission*, 84 Phil. 368.) In *Jimenez vs. Republic of the Philippines, et al.* (G.R. No. L-24529, February 17, 1968, 22 SCRA 622), Judge Eulogio Mencias of the Court of First Instance of Rizal prepared and signed a decision in Criminal Case No. 9531 and delivered it to the Clerk of Court on January 16, 1965, on which date the latter issued and served notice on the petitioner to appear in court on January 21, 1965, which was subsequently declared by the President as special holiday. On this date, Judge Mencias had reached the age of 70 and was retired from the bench. Respondent Judge Pedro Navarro was immediately designated to take the place of Judge Mencias. Subsequently, Judge Navarro denied petitioner's motion to set aside decision and promulgation on April 2, 1965 and ordered that the decision be promulgated. This Court held that the decision rendered by the retired Judge Eulogio Mencias cannot be validly promulgated and acquire a binding effect for the same has become null and void under the circumstances (citing *Ong Siu, et al. vs. Hon. Antonio P. Paredes, et al.*, G.R. No. L-21638, July 26, 1966).

[7] 8 Phil. 98.

[8] "In *Duplantis vs. Barrow* (1928) 165 La. 1091, 116 So. 568, the court held that a judge was fully competent to pass on the merits of a case begun before his predecessor, and to decide whether a preliminary injunction granted by his predecessor should be dissolved or maintained, in whole or in part. On a subsequent appeal of the same case (1928) 165 La. 1101, 116 So. 572), it was objected that it was a denial of 'due process of law' for a judge who had read the evidence, but who had not heard it, to pass on the case. It appeared that, after the evidence had been taken stenographically and filed in the record, the trial judge resigned. His successor, after reading the evidence and hearing the argument, had rendered judgment. The court overruled the contention that 'due process of law' had been denied, basing its decision on *Barton vs. Burbank* (1916) 138 La. 997, 71 So. 134, where the court said: 'Where a case has been tried and submitted, with full opportunity for the cross-examination of witnesses, but the judge before whom it was tried retires from the office before giving judgment, there is no reason why his successor in office should not give such judgment, after hearing argument and without hearing further testimony.'"

"It will be observed that the reported case (*Hoffman vs. Shuey*, ante, 842), which is cited in the original annotation (54 A.L.R. 953), upholds the power of a judge to sign a judgment written on the records of the court in an action tried before his predecessor, the court saying that when a judge 'manifests, but leaves unfinished, an official act, his successor may complete it.'" (58 A.L.R. 848-849.)

"In *Charles vs. State* (1836) 4 Port. (Ala.) 107, where defendant was found guilty of murder, but the court adjourned without sentencing him, and the trial judge died after the term, the judge's successor was held to have the power to sentence him at a later term.

"And a different judge from the one who presided at a rape trial, and who died before judgment, was held authorized to sentence the defendant, who had been found guilty, in *Lanphere vs. State* (1902) 114 Wis. 193, 89 N.W. 128.

"Against the contention that sentence could not be imposed (for forgery) by a judge who did not participate in the trial, but was the successor of the trial judge, who had died, the court in *Meldrum vs. United States* (1907; C.C.A. 9th) 151 F. 177, 10 Ann. Cas. 324, noted particularly that the testimony was preserved, referred to statutory authority to the effect that, after the death of a trial judge (or sickness or other disability), his successor or any other judge of the court might, if the evidence had been taken, pass upon a motion for new trial, the statute also giving him discretion to grant a new trial if he should be satisfied that he could not fairly pass upon such motion;

and observed that, in view of the succeeding judge's undoubted authority to deny a new trial, there could be no question of his power to proceed further in the case and render judgment upon the verdict. The lower court in (1906; D.C.) 146 F. 390, which overruled the particular contention that only the presiding judge would presume to exercise the wide discretion given him, said: "True, a judge who has not heard the witnesses, or noted their bearing while upon the stand giving their testimony, might not in many cases be so well qualified as the judge who presided to pass upon such motions; yet unless it develops that he is unable, by reason of the fact that he did not preside, to fairly pass upon the motion, he is as fully authorized to perform the function as if he had presided at the trial. . . Where the discretion is vested in the court, there is no requirement, either express or implied, that it should be exercised by the judge presiding at the trial, in conjunction with, and as a part of, the jury's work in finding the verdict, and not by his successor as an act independent of the jury. . . . There may be cases where no one but the judge who presided at the trial could intelligently, or with propriety, pass upon the motion for a new trial or pass sentence; but this is manifestly not one of them."

[9] In *People vs. Court of Appeals and Domalaon*, 99 Phil. 786 and *People vs. So*, 101 Phil. 1257, this Court, after holding that a judgment promulgated after the judge who signed the decision has ceased to hold office, is not valid and binding, returned the cases to the Court of First Instance for adjudication by the next presiding judge in accordance with evidence already adduced.

"In *People vs. Bork* (1884) 96 N.Y. 188, the court said, *arguendo*, that it knew of no constitutional principle which required that judgment on a conviction for crime, must be pronounced by the same judges before whom the trial was had. And the view that it was not essential that the court pronouncing judgment should be composed of the same justices, 'or, indeed, of any of the justices, who composed the trial court, was expressed in *People vs. Brown* (1912) 153 App. Div. 234, 138 N.Y.S. 7 (violation of Penal Law), where a sentence was held properly imposed four days after defendant was found guilty by a trial court of three justices, by the same court as then composed of two of the same justices and a new one, who apparently succeeded one of the former members.

"It was considered proper that a sentence be pronounced by a successor of the judge who presided at the trial in *State vs. Knotts* (1905) 70 S.S. 400, 50 S.E. 9 (obstructing a highway); and also apparently in *Ex parte Williams* (1890) 26 Fla. 310, 8 So. 425 (larceny).

"And after the death of a judge before whom a defendant was convicted (prohibition law violation) his successor was held empowered at a later term to impose sentence in *Snyder vs. State* (1921) 18 Ala. App. 188, 90 So. 40." (114 A.L.R. 441-442.)

[10] See *People vs. Buslon*, 15 SCRA 460.

[11] *Hilario vs. Fernandez*, L-7904, April 14, 1955; *Gregorio vs. Director of Prisons*, 43 Phil. 650; *People vs. Quebral*, 42 Off. Gaz. 2788; *People vs. Feliciano*, L-3822, July 31, 1951.

[12] *De Leon vs. Rodriguez*, 107 Phil. 759.

**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.