

DIRECTOR OF LANDS, PETITIONER AND APPELLEE, VS. NEMESIO ACANA, ET AL., CLAIMANTS, HEIRS OF JUAN GONZALES, CLAIMANTS AND APPELLANTS, HILARION CASTIGADOR, CLAIMANT AND APPELLEE.

G. R. No. L-20350. June 30, 1966

Ponente: BARRERA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/74606cb24a76/>

BARRERA, J.:

Appeal from the order of the Court of First Instance of Iloilo denying appellant's motion to set aside the order of default.

Cadastral proceedings were opened for the Municipality of Lambunao, Iloilo, in the Court of First Instance of Iloilo and on January 18, 1962, said court, through Judge Nañawa, issued an order of general default. On March 21, 1962, herein claimants heirs of Juan Gonzales, through Conrada Gonzales Lira, filed a motion to lift the order of default with respect to Lot No. 3170, to wit:

"1. That the said claimant Conrada G. Lira is representing herein the heirs of Juan Gonzales in Lot No. 3170, Lambunao Cadastre.

"2. That the heirs of Juan Gonzales are the only claimants on record in the Bureau of Lands to the above-mentioned Lot No. 3170.

"3. That said lot is uncontested, the heirs of Juan Gonzales being the only claimants on record.

"4. That not any of the heirs of Juan Gonzales has received any sketch card from the government surveyor regarding said Lot No. 3170.

"5. That said claimant Conrada G. Lira has not filed any answer because she has no card and she believed in good faith that the land covered by said Lot NO. 3170 included among the sketch cards which she received and filed.

"6. That said Lot No. 3170 has been in actual physical possession of the heirs of Juan Gonzales and their predecessors from time immemorial.

"WHEREFORE, forgoing premises considered, it is hereby prayed that this Honorable Court order the lifting of the default order in the instant case as regards Lot No. 3170."

On March 27, 1962, the trial court, through Justice of the Peace Felipe L. Vacante of Lambunao (designated to hear cadastral cases) rendered a decision adjudicating Lot No. 3170 to Hilarion Castigador married to Jesusa Losaños.

On April 6, 1962, the trial court issued an order denying the motion of claimant Lira to lift the order of default, of this tenor:

“On March 30, 1962, claimant Conrada G. Lira filed a motion praying for the lifting of the previous order of general default, stating further that there are no other claimants on record.

“Records show that this lot was heard on March 12, 1962 and a decision thereto rendered on March 27, 1962 in favor of the only claimant Hilarion Castigador.

“Considering the status of the case at this juncture, a motion to lift order of default unaccompanied by other proper remedies, may land nowhere.

“In view of the foregoing, this Court cannot give due course to the aforesaid motion, without prejudice to the proper remedy or remedies available in the premises.”

On April 11, 1962, the herein claimants Heirs of Juan Gonzales filed a motion to set aside the decision of March 27, 1962, attaching thereto an affidavit of merit.

On May 28, 1962, the trial court denied said motion in an order which reads:

“This Court finds no basis to set aside its judgment dated March 27, 1962, the default order dated January 18, 1962 having not been lifted.

“In view hereof, the motion to set aside the judgment dated April 11, 1962 is denied.”

Hence, this appeal.

Appellants claim that the trial court erred in not setting aside the order of and judgment by default and in not granting a new trial.

The claim is meritorious. It is not disputed that after the trial court had issued a general order of default on January 18, 1962, herein appellants on March 21, 1962 filed a motion to lift said order of default. In spite, however, of said motion, the court on March 27, 1962 rendered judgment adjudicating the lot in question (Lot No. 3170) to Castigador. Again, on April 11, 1962, appellants filed a motion to set aside said decision, attaching thereto an affidavit of merit, stating the reasons relied upon for the reopening of the case. Despite said motion, the court denied it.

Note that the motion (dated April 11, 1962) to set aside the judgment of March 27, 1962 alleges not only excusable negligence or mistake on appellants' part, namely, that they failed to file their answer over Lot No. 3170 because they did not receive a sketch card from the government surveyor who surveyed the lot, but is accompanied by an affidavit of merit alleging with particularly said excusable neglect. Furthermore, appellants also interposed a meritorious defense or claim not only in said motion, but also in the affidavit of merit, stating:

“2. That in spite of the fact that during the survey, the said lot is listed a claimed by the heirs of Juan Gonzales and so listed also in the cadastral plan and in the numerical and alphabetical list of claimants in the Bureau of Lands, yet neither I nor any of my co-heirs Jose, Preciosa, Aurora, Clerina, Loreto, Purificacion and Elvira were given personal notice of the hearing of this lot, for which reason, we were not able to file an answer to the same in due time which at most constitute excusable negligence or mistake.

“3. That we have a meritorious claim over said lot as in fact the same is actually possessed by us and we have been in possession of the same together with our predecessor, Juan Gonzales for more than thirty (30) years which possession of the same together with our paying the land taxes thereof, declaring it in the name of our predecessor, Juan Gonzales and getting the products therefrom for said period.”

The court below should have, therefore, granted new trial of the case, it appearing that the provisions of sections 1 and 2, Rule 37 of the Rules of Court were duly complied with. For refusing to reopen the case, the trial court gravely abused its discretion.

WHEREFORE, the orders complained of are hereby set aside and the case is remanded to the trial court for further proceedings. No costs.

Concepcion, C.J., Reyes, J.B.L., Dizon, Regala, Makalintal, Bengzon, J.P., Zaldivar and Sanchez, 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.