

VICENTE YU, PLAINTIFF-APPELLANT, VS. EMILIO MAPAYO, DEFENDANT-APPELLEE.

G.R. No. L-29742. March 29, 1972

Ponente: REYES, J.B.L., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/816842ce7f52/>

REYES, J.B.L., J.:

Appeal from an order of the Court of First Instance of Davao City, Branch II (Judge Alfredo I. Gonzalez presiding), rendered in its Civil Case No. 4018, dismissing plaintiff's action for lack of prosecution.

The case originally started in the City Court of Davao, Branch II, where appellant therein had filed suit to recover from defendant Emilio Mapayo the sum of P2,800, repre-senting the unpaid balance of the purchase price of a Gray Marine Engine sold by the plaintiff to the defendant, plus attorney's fees. The answer admitted the transaction and the balance due but contended that by reason of hidden defects of the article sold, the defendant had been forced to spend P2,800 for repairs and labor, wherefore plaintiff had agreed to waive the balance due on the price of the engine, and counterclaimed for damages and attorneys' fees. The City Court, after trial, disallowed the defenses and ordered the defendant to pay plaintiff P2,500.00 and costs (Record on Appeal, pages 9-16).

Defendant Mapayo appealed to the Court of First Instance, filing an answer therein that was a virtual reproduction of his original defenses in the City Court. When, after several continuances, the case was called for hearing on 13 March 1968, the defendant, as well as his counsel, failed to appear and the court-scheduled the case for hearing ex parte on the same day. The Court ordered plaintiff to present his evidence, and from the unchallenged stenographic notes quoted in appellant's brief, pages 11-14 (Transcript, pages 4-7), the following transpired:

"ATTY. LOZANO:

If your Honor please, before I present my witness I should like to present the issues because all the allegations of the complaint are admitted and I am going to specify by the answer, your Honor. (Italics supplied)

COURT:

The issue is void on the hidden defect.

ATTY. LOZANO:

That is why, if your Honor please, the point if your Honor please, is I do not have to prove that there is a gasoline engine that was taken by the defendant from the plaintiff for an agreed amount of P6,800.00 because the allegation in paragraph 1, No. 2 and No. 3, is admitted in the answer.

In other words, if your Honor please, the promissory note in the amount of P2,800.00 * * * (interrupted by court).

COURT:

Wait a minute, are you going to present evidence or not?

ATTY. LOZANO:

Will you please give me a chance, if your Honor please, because my purpose is, it will turn out that it will be the defendant to present evidence to prove that there is hidden defect. He admitted the allegation, he admitted that there is a balance of P2,800.00; it is not paid by him but at the same time he said that there is a hidden defect.

In other words, if your Honor please, it should be the defendant to present the evidence * * * (interrupted by court).

COURT:

Are you going to present evidence, substantial, oral, or not? Answer the question of the Court.

ATTY. LOZANO:

If your Honor please, on the complaint, on the allegation of the complaint, all are admitted by the defendant * * * (interrupted by court).

COURT:

The attorney does not answer the question of the Court.

Answer the question, are you going to present evidence OR NOT AND SUBMIT THE CASE ON THE PLEADINGS. (Italics supplied)

ATTY. LOZANO:

Would you please allow me, your Honor, because in the answer of the defendant * * * (interrupted by court).

COURT:

I do not need discussion; I want you to answer the question of the Court.

ATTY. LOZANO:

I am not going to present my evidence yet because at this moment I am submitting my evidence on the pleading until after the defendant will present evidence and I reserve my right to present rebuttal evidence. (Italics supplied)

COURT:

Make it of record that the attorney refuses to present evidence either oral or documentary when required by the Court.

ATTY. LOZANO:

Motion for reconsideration, if your Honor please, that is not what I said, if your Honor please . I manifested that it should be the defendant to prove first, to present evidence and we reserve our right to present rebuttal evidence, if your Honor please. (Italics supplied)

COURT:

All right, denied. Submit the case for the consideration of the Court."

The court then issued an order on the same day in the following terms (Record on appeal, page 24):

"ORDER

Make it of record that the attorney for the plaintiff refuses to present evidence, either oral or documentary, when required by the Court.

Submit the case for the consideration of the Court.

SO ORDERED."

A motion for reconsideration having been filed by counsel for plaintiff, it was denied by the court by an order of 21 March, and the case was dismissed for lack of prosecution (Record on Appeal, pages 34-35), the trial judge reasoning that —

"When the case is called for trial on 19 March 1968, defendant's counsel asked again for another postponement of the trial on the ground that defendant and his witnesses were not able to come for lack of transportation, notwithstanding a stern warning by the Court, per its order of 9 March 1968 that it would not entertain further motion for continuation of trial. Counsel for the plaintiff vehemently objected to such motion and insisted in presenting his evidence which the Court grants inspite of another civil case and one miscellaneous case which were ready for hearing at the same time.

"Court ordered the plaintiff to present his evidence. Plaintiff's counsel refused to comply with said order. Instead of calling his witnesses, he moved the Court to present them after the defendant had presented their evidence. The Court asked said counsel twice whether he would present his evidence for the plaintiff, but said counsel refused to do so and stuck to his demand that he would introduce his witnesses only in rebuttal. This is dictation to the Court to disregard its lawful command and a violation of the order of trial provided in the Rules of Court.

"This is an appealed case from the Municipal Court elevated to this Court on 18 May 1963 and from that time several postponement were granted at the instance of the parties which cause delay and is detrimental to the interest of justice.

"IN VIEW WHEREOF, let this case be dismissed for failure to prosecute on the part of counsel for the plaintiff without pronouncement as to costs.

"Finding defendant's counterclaim not meritorious, same is also dismissed.

"SO ORDERED."

Further motions to reconsider having proved futile, the plaintiff appealed.

We find for plaintiff-appellant. Since the answer admitted defendant's obligation as stated in the complaint, albeit special defenses were pleaded, plaintiff had every right to insist that it was for defendant to come forward with evidence in support of his special defenses. Section 2 of Revised Rule of Court 129 plainly supports appellant:

"SEC. 2. Judicial admissions. — Admissions made by the parties in the pleadings, or in the course of the trial or other proceedings do not require proof and can not be contradicted unless previously shown to have been made through palpable mistake."

While this appeal is not a complaint against the presiding judge, We can not refrain from observing that the trial judge's despotic and outrageous insistence that plaintiff should present proof in support of allegations that were not denied but admitted by the adverse party was totally unwarranted, and was made worse by the trial judge's continual interrupting of the explanations of counsel, in violation of the rules of Judicial Ethics.

Defendant not having supported his special defenses, the dismissal of the case was manifestly untenable and contrary to law.

WHEREFORE , the appealed order of dismissal is hereby revoked and set aside, and the court below is directed

to enter judgment in favor of plaintiff and against the defendant for the sum of P2,800.00, plus attorney's fees which this Court considers just and reasonable (Civil Code, Article 2208, paragraph II). Costs against defendant-appellee.

Let a copy of this decision be furnished the Honorable, the Secretary of Justice, for his information and action.

Concepcion, C.J., Makalintal, Castro, Fernando, Teehankee, Barredo, Villamor, and Makasiar, JJ., concur.

Zaldivar, J., 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.