

## **CELESTINO B. ROQUE, PLAINTIFF-APPELLEE, VS. MERCEDES CAVESTANI DE LOS SANTOS, DEFENDANT-APPELLANT.**

*G.R. No. L-218. August 08, 1946*

Ponente: PADILLA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/955350f168f4/>

---

### **PADILLA, J.:**

As the appellant refused or failed to vacate the upper floor of the house at 834 Calle Bambang, Manila, of which she was the lessee from month to month, notwithstanding notice to do so served upon her in February 1945. by an agent of the lessor, the appellee, an action for detainer was brought against her in April following. From a judgment rendered against her, she appealed to the Court of First Instance of Manila. There, she also was ordered to vacate the premises and to pay the stipulated rental at the rate of P30 a month from February until she shall have vacated it, but the court directed that no execution should "be issued against her "before December 31, 1945. From this last judgment again she has appealed.

There being no fixed term for the lease and the rental, agreed upon being monthly, the lease must lie deemed from month to month and may be terminated after each month with due notice served upon the lessee.

The plea that the appellant runs a beauty parlor in the leased premises; that to compel her to move out would cause her damages to the amount of P1,000; that it is difficult for her to find another house where to transfer her parlor, can not defeat the right of the lessor to have the possession of the leased premise s returned to him after due notice served upon the lessee.

Appellant invokes equity. She can not alone invoke it. Appellee can also invoice it to justify the action taken by him against her. The house on Misericordia St. where he lived was burned. That is why he wants her to move out from the only house he owns so that he can move in. Between the appellant and the appellee - the owner of the house - it seems that equity is in the latter's favor taking into consideration the situation in which both found themselves.

The mercenary and sordid motive ascribed to appellee aside from the fact that there is absolutely no evidence to support it was not pleaded in the court below. It can not and should not be pleaded on appeal.

Default in the payment of rentals was due to appellee's failure to collect rather than to appellant's unwillingness or refusal to pay.

Judgment is affirmed, with, costs against the appellant.

Paras, Pablo, Perfecto, and Hilado, 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.