

**TOMASA V. BULOS VDA. DE TECSON, AS ADMINISTRATIX OF THE
TESTATE ESTATE OF THE DECEASED PABLO TECSON OCAMPO,
PLAINTIFF AND APPELLEE, VS. BENJAMIN, RAUL AND MIGUEL, ALL
SURNAMED T...**

G.R. No. L-5233. September 30, 1953

Ponente: BAUTISTA ANGELO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/97ba40d3c2fc/>

BAUTISTA ANGELO, J.:

The incident involved in this appeal stems from an action for forcible entry originally commenced on June 12, 1941 in the Justice of the Peace Court of San Antonio, Nueva Ecija, by Tomasa V. Bulos Vda. de Tecson in her capacity as administratrix of the estate of the deceased Pablo Tecson Ocampo against defendants-appellants.

In that case, defendants filed a written answer. After trial, the court dismissed the case. From the decision plaintiff appealed to the Court of First Instance of Nueva Ecija, and the case was docketed as Civil Case No. 8889.

Having failed to answer the complaint within the time prescribed in section 1, Rule 9, of the Rules of Court, defendants, on motion of plaintiff, were declared in default and thereafter plaintiff presented her evidence. On October 8, 1941, a judgment by default was rendered against defendants, and on October 10, 1941, copy of the decision was served on defendants' counsel.

Three days after receipt of copy of the decision, or on October 13, 1941, counsel for defendants filed a written manifestation stating that he would file a petition to set aside the decision by default but that he needed more time to do so to enable him to gather evidence and prepare the necessary affidavits of merit in support of the petition. This was done on October 16, 1941. Plaintiff filed an opposition to the petition for relief. Then war broke out and no action was taken on the petition.

After liberation, counsel for defendants took steps to have the petition for relief acted upon by the court. The petition was set for hearing several times, but before action thereon could be taken, both parties agreed in a joint motion to have the hearing cancelled as they would merely file memoranda in support of their contentions. These memoranda having been submitted, the court issued, an order denying the petition. From this order defendants took the case directly to this court stating that their appeal "is based merely on questions of law."

The preliminary question which should be threshed out before we come to the main issue is whether this appeal should be determined considering merely the findings of fact of the lower court in the order subject of appeal. Counsel for appellee sustains the affirmative view because, he contends, appellants have stated in their notice of appeal that their "appeal is based merely on questions of law" which means that they cannot discuss any fact or circumstance other than those found by the lower court. Counsel for appellants sustain the contrary view contending that the facts brought out in their pleadings and affidavits of merit stand undisputed and so they can now be considered.

It appears that on October 13, 1941, or three days from receipt of copy of the decision by default, counsel for defendants filed an urgent manifestation stating that he would presently file a petition for relief but that he wanted more time to gather data and prepare the requisite affidavits of merit in support of the petition, and in effect he filed the petition three days thereafter attaching thereto four affidavits of merit. Said petition shows the following facts: The notice intended for defendants requiring them to answer was received by one Mariano Linao, an employee of a business firm named Lawyers' Printers. The office of defendants' counsel was located in the same room occupied in part by said firm, whose manager was one Marcos Suñga. The personnel of the law office of counsel for defendants merely consisted of three, namely, Atty. Gaudencio B. Talahib, one typist and a messenger. When the notice of the court reached the office of counsel, only Mariano Linao was present, who signed the return card and placed the letter on a table. The messenger of defendants' counsel was out to attend to some errand but when he returned Linao left without calling his attention to the letter. Both Atty. Castillo, defendants' counsel, as well as his assistant, Atty. Talahib, were also out attending to some professional engagement. The notice never came to the knowledge of defendants' counsel until he received, to his surprise, copy of the decision by default. Immediately he took steps to file a petition for relief. This petition was set for hearing several times, but the hearing was never held, as the parties agreed to submit memoranda in support of their contentions. And one of the points stressed in the petition was that defendants had a good and meritorious defense.

Considering that the petition for relief did not go through the process of a hearing, because both parties agreed to submit memoranda in support of their contentions, which implies that they waived their privilege to submit evidence, the logical consequence is that plaintiff, or her counsel, is deemed to have admitted the truth of all material and relevant allegations appearing in the petition, as well as in the affidavits of merit, and to have submitted the case upon those allegations. As this court aptly said, "One who prays for judgment on the pleadings without offering proof as to the truth of his own allegations, and without giving the opposing party an opportunity to introduce evidence, must be understood to admit the truth of all the material and relevant allegations of the opposing party, and to rest his motion for judgment on those allegations taken together with such of his own as are admitted in the pleadings." (*Evangelista vs. De la Rosa*, 42 Off. Gaz., 2100; *Aquino vs. Blanco*, 45 Off. Gaz., 2080.)

The facts concerning the petition for relief not being disputed, we are inclined to sustain the view of appellants' counsel that for purposes of this appeal we may take into account not only the findings of fact made by the lower court but all other relevant and material facts appearing in the pleadings to determine if said findings are proper, just and warranted.

The lower court found, among other things, that the facts contained in the petition "give a picture of a law office poorly organized and directed; a law office with one assistant, one messenger and one typist, still court notices are received by a stranger who signs for them; the allegation of counsel for the defendants that during or around the period he was very busy at the trial of many cases, as correctly answered by the plaintiff, is no excuse for the default entered in this case", and after stating that "plaintiff is as entitled as the defendants for the speedy termination of the case", the court, based on said findings, denied the petition for relief.

While a petition for relief as a rule is addressed to the sound discretion of the court, however, when it appears that a party has a good and meritorious defense and it would be unjust and unfair to deny him his day in court, equity demands that the exercise of judicial discretion be reconsidered if there are good reasons that warrant it. Here these reasons exist if only all the facts are considered. Note that counsel did not lose time in putting things aright when he came to know that something was wrong. Upon receipt of copy of the decision of the court, which came to him as a surprise, he immediately gave notice of his desire to file a petition for relief, which he did in no time,

attaching to his petition four affidavits of merit. These documents show that defendants had a good and meritorious defense and outline the circumstance which resulted in the failure of their counsel to answer within the reglementary period. They show that counsel was sharing office with a business firm and that because of an unfortunate coincidence the notice to answer was served on an employee of the firm. That such coincidence can happen cannot be denied. It is one of those things that can happen in the ordinary course of business. It may be an act of negligence for Mariano Linao not to give the notice to the messenger of defendants' counsel, or an act of negligence for the messenger to leave the office without leaving a substitute, but it cannot be denied that negligence is excusable because there was no deliberate intent on their part to cause inconvenience to the court, or delay the administration of justice. On the other hand, there is no showing that counsel is guilty of any attempt to delay the proceedings, or of any act of bad faith or inexcusable negligence which may warrant disciplinary action; on the contrary, it is the first time that he has been declared in default. These defendants be given one more opportunity to answer and present their evidence.

Wherefore, the order appealed from is hereby set aside. The petition for relief of defendants is granted and defendants are given ten days from notice to answer the complaint, without pronouncement as to cost.

Paras, C.J., Pablo, Bengzon, Padilla, Tuason, Montemayor, Reyes, Jugo, and Labrador, 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.