

BENITO COSA, PLAINTIFF AND APPELLANT, VS. JUAN BAROTILLO, DEFENDANT AND APPELLEE.

G. R. No. L-8752. April 29, 1957

Ponente: PADILLA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/b055c955f4bc/>

PADILLA, J.:

The plaintiff seeks (to annul the marriage contract entered into by his minor daughter without her parents' consent when she was over fourteen but below eighteen years of age (Court of First Instance of Manila, Civil Case No. 24182).

After hearing- the Court rendered judgment dismissing the complaint without pronouncement as to costs. The plaintiff has appealed.

It appears that Macaria Cosa was born on 10 April 1937 (Annex A); that on 9 July 1954 without the consent of her parents she contracted marriage with the defendant before the Justice of the Peace of Polo, Bulacan (Annex B), when she was 17 years, 2 months and 29 days, (Annex A). At the hearing of the case on 2 December 1954, Macaria Cosa testified that she was married to the defendant with whom she was cohabiting as husband and wife; that she was on the family way, two months gone; and that she does not want her marriage to be annulled.

On 26 April 1955 the appellee filed in this Court a motion to dismiss the appeal dated 25 April 1955, on the ground that the cause of action for the annulment of marriage no longer exists, because since he was married to Macaria Cosa and after the latter had attained the age of eighteen on 10 April 1955, they have freely cohabited with each other and lived together as husband and wife. On 25 April 1955 the appellee and Macaria Cosa executed a joint affidavit attached to the motion to dismiss the appeal stating the facts alleged in the motion. The motion to dismiss the appeal was objected to on the ground that it is not one provided for in the rules; that it is not true that the appellee and Macaria Cosa have freely cohabited and lived together as husband and wife; that there were two criminal cases against the appellee pending in the Courts of First Instance of Manila and Quezon City for forcible abduction and abduction with consent docketed as criminal cases Nos. 26266 and K-1317, respectively; and that the filing of the informations in the criminal cases referred to disprove the fact alleged in the motion to dismiss the appeal that they have freely cohabited and lived together as husband and wife.

The facts stated in the joint affidavit attached to the motion to dismiss the appeal cannot be taken into consideration by this Court in reviewing the judgment appealed from because it was not passed upon by the trial court. For that reason this case should be returned to the court below for determination whether the facts stated in the joint affidavit are true, thereby affording the appellant an opportunity to cross-examine the witness or witnesses who will testify in support of the joint affidavit and to present witnesses or evidence to rebut the testimony of those of the adverse party.

The judgment appealed from is set aside and the case returned to the trial court for further proceedings in accordance with this opinion; and after hearing to render judgment, without pronouncement as to costs.

Bengzon, Montemayor, Reyes, A., Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., Endencia, and Felix, 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.