

PHILIPPINE NATIONAL BANK, PLAINTIFF AND APPELLANT, VS. AMANDO M. PEREZ, ET AL., DEFENDANTS AND APPELLEES.

G.R. No. L-20412. February 28, 1966

Ponente: BAUTISTA ANGELO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/d98342821ecd/>

BAUTISTA ANGELO, J.:

The Philippine National Bank filed on March 22, 1961 before the Court of First Instance of Manila a complaint for revival of a judgment rendered on December 29, 1949 against Amando M. Perez, Gregorio Pumuntoc and Virginia de Pumuntoc pursuant to the provisions of Section 6, Rule 39, of the Rules of Court. It was alleged therein that said judgment was rendered more than five years ago but that . since then less than ten years had elapsed, and that judgment be rendered reviving the one entered on December 29, 1949 sentencing the defendants to pay jointly and severally the outstanding balance of P7,699.49 as of February 9, 1961, with interest thereon of 10% per annum from February 19, 1961, plus 10% of the amount due as attorney's fees and costs of suit.

Defendants Gregorio Pumuntoc and Virginia de Pumuntoc failed to file their answer within the reglementary period for which reason they were declared in default. Defendant Amando M. Perez, who was summoned by publication, also failed to file his answer, whereupon he was also declared in default, and though he later filed an answer the same was stricken out from the record.

Thereupon, plaintiff submitted its evidence, but when the case was submitted for decision, the court a quo dismissed the complaint on the ground that plaintiff's cause of action had already prescribed under Articles 1144 and 1152 of the Civil Code.

Plaintiff filed a motion for reconsideration contending that, since prescription is a defense that can only be set up by defendants, the court could not *motu proprio* consider it as basis for dismissal, but this motion was denied.

Plaintiff took the present appeal.

It appears that when defendants were declared in default plaintiff was allowed to present its evidence from which it was established that in the previous case between the same parties (Civil Case No. 9048) a decision was rendered on December 29, 1949 ordering defendants to pay plaintiff the sum of P3,783.78, with 8% interest from December 21, 1949 until fully paid, plus the corresponding attorney's fees and costs of suit. This decision became final on February 2, 1950, or 30 days from the date same was received by the parties. As a matter of fact, the writ issued for its execution bears the date of February 24, 1950. However, the instant case was filed with the court a quo only on March 22, 1961, thereby showing that more than 11 years had already elapsed on the date of the filing of the action.

Since under Section 6, Rule 39, of the Rules of Court a judgment which was rendered more than five years after it had become final can only be revived before it is barred by the statute of limitations, and an action for the enforcement of judgment can only be brought within 10 years from the time the judgment becomes final (Articles 1144 and 1152, Civil Code), it follows that plaintiff's action has already prescribed as found by the court a quo. In

other words, while plaintiff's complaint alleges that the previous judgment was rendered more than five years but less than ten years since its rendition, the very evidence of the plaintiff, however, shows that the present action was filed after the lapse of more than 10 years.

It is true that the defense of prescription can only be considered if the same is invoked as such in the answer of the defendant and that in this particular instance no such defense was invoked because the defendants had been declared in default, but such rule does not obtain when the evidence shows that the cause of action upon which plaintiff's complaint is based is already barred by the statute of limitations. Thus, the court a quo made on this point the following finding:

"* * * Since the defendants did not elect to appeal the decision against them, the same became final on February 2, 1950 or 30 days from receipt by the parties of copies of the decision. Said decision must at the latest have become final on February 24, 1950, the date the writ of execution Exhibit B-1 was signed. However, the instant case was tiled with this Court on March 22, 1961, thereby showing that whether from February 2, 1950 or February 24, 1950, more than 11 years have already elapsed."

Wherefore, the order appealed from is affirmed. No costs.

Bengzon, C. J., Reyes, J. B. L., Regala, Bengzon, J. P., Zaldivar and Sanchez, JJ., concur.

Order affirmed.

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.