

ROSA BUNGAY VDA. DE QUILLOSA, AURORA QUILLOSA DE PALMIANO, AND RICARDO QUILLOSA, PLAINTIFFS AND APPELLANTS, VS. TARCILA SALAZAR, DEFENDANT AND APPELLEE.

G.R. No. L-18172. July 20, 1965

Ponente: MAKALINTAL, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/da0108a45ca3/>

MAKALINTAL, J.:

On April 12, 1956 Martin L. Quillosa filed an action (Civil Case No. 1264) against Tarcila Salazar in the Court of First Instance of Bulacan for declaration of ownership of a parcel of registered land and for annulment of the corresponding transfer certificate of title in the defendant's name (T.C.T. No. 1447 of the office of the Register of Deeds of Bulacan). The basic allegations in the complaint were that the plaintiff was the owner of said land under transfer certificate of title No. 27253; that he discovered this certificate to be missing from his files and upon investigation found out that it had been cancelled and the other certificate issued to the defendant by virtue of a deed of sale purportedly signed by him; and that the signature on said deed was a forgery and the sale was therefore fictitious.

On May 7, 1956 the defendant moved for a bill of particulars pursuant to Rule 16, Section 1 (of the old Rules of Court), asking that the plaintiff be ordered to describe with sufficient definiteness the alleged fictitious deed of sale and to attach a copy thereof to the complaint and also to allege with particularity as to how and when and by whom the supposed forgery of the plaintiff's signature had been committed. In an order issued May 22, 1956 the Court Granted the motion and required Quillosa to submit a bill of particulars as prayed for.

The order was not complied with notwithstanding the lapse of the ten-day period prescribed by the Rules for that purpose (Rule 16, Section 3); and so the defendant filed a motion to strike out the complaint on that ground, which motion was granted in an order dated July 7, 1956.

Subsequently, or on July 13, 1956, the/defendant filed another motion for dismissal of Civil Case No. 1264 and for the cancellation of the notice of lis pendens annotated on the back of transfer certificate of title No. 1447 on the ground that by virtue of his refusal to submit a bill of particulars as ordered by the Court the plaintiff "has clearly shown his lack of interest to prosecute this case." On July 21, 1956 the Court issued an order granting the motion, stating that the previous order of July 7, striking out the complaint, was "tantamount to a dismissal of the case," and that therefore said case "shall be deemed dismissed."

It appears that Martin L. Quillosa died on July 17, 1956. His counsel, however, did not promptly notify the Court of his death as required by the Rules (Rule 3, Section 16). It was only on December 6, 1956 that another lawyer, acting for "the heirs or legal representatives of the deceased," entered his appearance and filed such notice. And evidently because the case had already been dismissed no action was taken by the Court for substitution of party-plaintiff. Nothing further was done by the new counsel in the premises. Instead, on June 29, 1957, almost a year after the dismissal of the case, the widow and children of Martin L. Quillosa filed another action against the same defendant (Civil Case No. 1529), praying that they be declared owners pro-indiviso of the same, parcel of

land and that transfer certificate of title No. 1447 be cancelled and another one issued in their names. In support of such prayer they alleged the same grounds as those alleged in the complaint in the previous case, although this time there was attached a copy of the supposed fictitious deed of sale.

On July 1, 1957 the defendant filed a motion to dismiss the complaint because the cause of action set forth therein was barred by a prior final judgment. The motion was granted in an order issued by the court on August 3, 1957, as follows:

"It appearing that the complaint in this case had already been stricken out by order of this Court dated July 7, 1956, in Civil Case No. 1264 and that the plaintiffs had not taken any action towards having the said order set aside or reversed by the court, the filing of the present complaint is now barred by res adjudicata for the reason that the striking out of plaintiff's complaint was not without prejudice and is understood under the rules to be a dismissal on the merits.

"WHEREFORE, finding the motion to be well founded, let the complaint be, as it is hereby DISMISSED.

"SO ORDERED."

The plaintiffs moved to reconsider the foregoing order, and upon denial of their motion elevated the case to the Court of Appeals, which certified the same to this Court since the only question raised in appellants' brief is purely legal, namely, whether the dismissal of the complaint in the first case (Civil Case No. 1264) constitutes res adjudicata.

Rule 30, sections 3 and 4 (of the old Rules of Court) provide:

"SEC. 3. Failure to prosecute.—When plaintiff fails to appear at the time of trial, or to prosecute his action for an unreasonable length of time, or to comply with these rules or any order of the court, the action may be dismissed upon motion of the defendant or upon the court's own motion. This dismissal shall have the effect of an adjudication upon the merits, unless otherwise provided by the court."

"SEC. 4. Effect of dismissal on other grounds.—Unless otherwise ordered by the court, any dismissal not provided for in this rule, other than a dismissal for lack of jurisdiction, operates as an adjudication upon the merits."

The complaint in Civil Case No. 1264 was ordered stricken out by the lower court upon motion of the defendant because of the failure of plaintiff Martin L. Quillosa to comply with the order requiring him to submit a bill of particulars. Such failure is clearly a ground for dismissal under section 3 of Rule 30 (section 3, Rule 17 of the Revised Rules), which dismissal is equivalent to an adjudication on the merits unless otherwise provided by the court.

There can be no doubt that all the elements of res adjudicata are present: a final order, which is deemed a judgment on the merits; jurisdiction over the subject matter and over the parties; and identity of parties, subject-matter and cause of action in the two cases. The complaints in both refer to the same land, allege the nullity of the same transfer certificate of title in the defendant's name on the same ground, namely, the fictitious character of the deed of sale in her favor, and pray for the same relief. The parties are, of course, also identical, since appellants have filed the second case as heirs of the plaintiff in the previous one.

Appellants contend that the order of July 21, 1956 in Case No. 1264 was issued after the death of the plaintiff therein on July 17, 1956, and therefore did not acquire the character of finality as against him. But as stated by the Court, and correctly so, in our opinion, it was really the first order dated July 7, 1956 which dismissed the case upon the striking out of the complaint.

In any event the important fact is that the Court issued an order for a bill of particulars to be submitted and since that order was not complied with the dismissal of the case was justified. Appellants say the order striking out the complaint was not one of dismissal, but when the Court so treated it in its subsequent order of July 21, 1956, wherein it was stated that "this case shall be deemed dismissed," precisely because the striking out of the complaint was "tantamount to a dismissal of the case," it was the duty of counsel to move promptly in the premises by filing the requisite notice of death so that the court could order a substitution of party-plaintiff. This step was not taken except in December 1956, and by that time the order of July 7, 1956 had become final. Not even a petition for relief was presented pursuant to Rule 38. The very fact that appellants totally abandoned the first case and commenced an entirely new one shows that they themselves were convinced of the finality of the dismissal although they believed, erroneously as it turns out, that such dismissal did not have the effect of an adjudication on the merits. This, indeed, was the theory they advanced in the lower court both in their opposition to appellee's motion to dismiss the complaint in the instant case and in their motion for reconsideration of the order of dismissal which is the subject of this appeal.

The order appealed from is affirmed, with costs.

Bengzon, C. J., Bautista Angelo, Concepcion, Reyes, J. B. L., Paredes, Dizon, Regala, Bengzon, J. P., and Zaldivar, 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.