

LUCRECIO DE GUZMAN AND ADELA DE LA CRUZ, PETITIONERS, VS. HONORABLE GAUDENCIO CLORIBEL, JUDGE OF MANILA COURT OF FIRST INSTANCE, VILFRAN TRANSPORTATION CO., NAME AND BUSINESS ST...

G.R. No. L-24480. January 16, 1968

Ponente: CONCEPCION, C.J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/ea453ed42536/>

CONCEPCION, C.J.:

Original petition for certiorari, mandamus and prohibition.

Petitioners, Lucrecio de Guzman and his wife, Adela de la Cruz, are the parents of Eduardo de Guzman, a newspaper vendor, 15 years of age, who died in Manila, on February 2, 1961, in consequence of injuries sustained when he was run over by a passenger bus of respondent Vilfran Transportation Co. ? hereinafter referred to as the Company — driven by respondent Artemio Aguilar y Mallari, as he (Eduardo) fell or jumped from said vehicle, which he had boarded to sell newspapers to its passengers, while in motion. Hence, the petitioners herein instituted, in the Court of First Instance of Manila, the present case, to recover damages from said respondents. A criminal action, for homicide through reckless negligence, was also, filed against Aguilar.

On April 28, 1964, respondents moved to dismiss the complaint herein, to which petitioners countered with a motion, dated May 15, 1964, to declare the respondents in default, alleging that they had been served with summons on April 12, so that the motion to dismiss was filed one day after the expiration of the reglementary period[1] therefor. On May 16, 1964, said court, presided over by Hon. Gaudencio Cloribel, Judge, issued an order declaring respondents in default and authorizing the Clerk of Court to receive petitioner's evidence. Respondents sought a reconsideration of this order, which was denied on June 1, 1964.

Soon after the presentation of petitioners' evidence, or on August 11, 1964, Judge Cloribel rendered judgment sentencing respondents to pay damages in the aggregate sum of P70,000.00, besides P8.00 daily, from February 2, 1961, until actual and complete payment, plus P589.00, for medical and funeral expenses, P10,000.00, as attorney's fees, and the costs.

Having received copy of this decision on August 17, 1964, respondents filed on August 28, a "petition for relief from judgment," praying for:

"1. An order x x x setting aside the order of default and admitting the answer attached herewith as Annex: 'E';

"2. An order x x x setting aside the judgment dated August 11, 1964;

"3. An order x x x allowing the defendants to at least cross-examine the witnesses for the plaintiffs and to present evidence in their defense;

"4. x x x such other relief just and equitable under the premises;"

Petitioners, in turn, filed, on September 17, 1964, a motion for execution of the decision of August 11, 1964, alleging that respondents had not appealed therefrom, although more than thirty (30) days had elapsed since notice thereof had been served on them on August 17, 1964. Petitioners had set this motion for hearing on September 19, 1964, which was postponed, by Judge Cloribel, first, to September 26, and then to October 3, 1964. On October 2, 1964, petitioners filed an "urgent motion for immediate resolution granting motion for execution." This was followed, on October 3, 1964, by respondents' "supplemental petition for relief from judgment and opposition to the motion for execution," reiterating the prayer in their petition of August 28, 1964, and asking, in addition thereto, that "the motion for execution dated September 17, 1964, be denied."

On October 6, 1964, Judge Cloribel issued an order denying said motion for execution, granting respondents' petition for relief from judgment, setting aside his decision of August 11, admitting respondents' answer and allowing the Company to introduce its evidence. On October 16, petitioners moved for a reconsideration of said order of October 6, but the motion was, on November 4, 1964 denied.

On April 24, 1965, petitioners commenced the present action for certiorari, mandamus and prohibition against respondents and Judge Cloribel. Petitioners maintain that the latter had:

- 1) Committed a grave abuse of discretion: (a) in granting respondents' petition for relief from judgment, although petitioners herein had not been served with copy of said petition and they had not been required to answer thereto; and (b) in requiring the petitioners to serve copy of their motion for reconsideration upon the respondents, despite the fact that the latter had been declared in default; and
- 2) Neglected the performance of a ministerial duty in refusing to issue a writ of execution despite the circumstance that the decision of August 11, 1964 was immediately executory, considering that respondents herein had been declared in default and had not sought relief from the order declaring them in default.

Petitioners' contention is, however, predicated upon a false premise, for respondents had asked, in their petition of August 28, 1964, as well as in their supplemental petition of October 3, 1964, not only that the order of May 16, 1964, declaring them in default, be set aside, but, also, that their answer, annexed to the first petition, be admitted. Then again, on August 28, or eleven (11) days after service of copy of the decision of August 11, 1964, and, hence, before the same had become final and executory, respondents had prayed in said petition of August 28, 1964 — and reiterated it in the supplemental petition of October 3, 1964 — for an order setting aside said decision, and allowing them to cross-examine the witnesses for the petitioner and to present evidence in their defense. Although both petitions are entitled "petitions for relief from judgment," they were, in fact, motions for new trial, which suspended the running of the period to appeal.[2] It was not necessary, therefore, that petitioners herein be required to answer said petitions before Judge Cloribel could act thereon.

In said petitions respondents alleged that, due to accident and/or excusable negligence, notice of the order of June 1, 1964, denying the reconsideration of the order of default, dated May 16, 1964, had been served upon the receiving clerk in the office of respondent's counsel; that said clerk turned it over to the employee in charge of delivering correspondence to said counsel; that, since it was then past closing time and everybody was preparing to leave the office, said employee placed the notice inside a drawer; that the next day, however, he fell sick and was unable to report for work until after a week; , that, by this time, the employee had forgotten about the notice in question; and that, having, subsequently, ceased to work with said counsel, the latter had never actually received the notice of the order aforementioned.

Respondents further alleged in their aforementioned petitions that summons and copy of petitioners' complaint were served, not upon the manager or owner of the company, but upon employee thereof, who placed it in one of the drawers of his desk; that, several days later, said papers were turned over to the traffic investigator of the

company, for delivery to its counsel; that when the traffic investigator inquired about the date of service of summons, with the complaint, said employee stated that, to the best of his recollection, it was April 13, 1964; and that, accordingly, this was the information transmitted by the investigator to respondents' counsel.

Affidavits of the employee who received the notice of the order of June 1, 1964, and of the aforementioned investigator, supporting the foregoing allegations, were attached to the petition for relief.

It moreover appears that, in a decision rendered in the criminal case against respondent Aguilar, it was held that the death of Eduardo de Guzman had been due to an accident, which is not imputable to the negligence of the accused. Hence, one of the defenses set up in respondents' answer is that the present civil action is barred by the decision in said criminal case.

Although petitioners intimate that they had not been served with copy of respondents' petition for relief from judgment, we note that they have not made such allegation in their motion for reconsideration of October 16, 1964, and that there is, at the foot of said petition, a statement to the effect that copy thereof had been furnished counsel for herein petitioners by registered mail. At any rate, in their aforementioned motion for reconsideration, petitioners had an opportunity to elucidate on all matters relevant to said petition for relief filed by respondents herein.

For the rest, we are satisfied that Judge Cloribel had, not only committed no abuse of discretion, but, also, exercised it wisely in issuing his orders of October 6 and November 4, 1964. Indeed, considering that the motion to dismiss was late only one (1) day; that the aforementioned petition for relief (or new trial) of respondents herein had been filed before the decision of August 11 had become final and executory; that, according to the decision in the criminal case, the death of Eduardo de Guzman was not due to any negligence on the part of respondent Aguilar; and that the damages awarded in the decision of August 11, 1964, amount, in effect, to around P100,000.00, it is obvious to us that, in issuing his orders complained of Judge Cloribel had promoted the ends of justice and acted in consonance with the tenets of fair play.

Petitioners would seem to be under the impression that a judgment rendered in default is immediately executory. This is not true for, said judgment is appealable, although a motion to set, aside the order of default, upon the ground of fraud, accident, error, or excusable neglect, was necessary prior to 1964. Respondents' petition for relief from judgment, dated August 28, 1964, was to that effect. Since January 1, 1964, when the present Rules of Court became effective, even said motion to set aside the order of default has been dispensed with by explicit provision of the last paragraph of Section 2, Rule 41, of said Rules.[3]

WHEREFORE, the petition herein should be, as it is hereby dismissed, and the writs prayed for denied.

IT IS SO ORDERED.

Reyes, J.B.L., Dizon, Makalintal, Bengzon, J.P., Zaldivar, Sanchez, Ruiz Castro, Angeles, and Fernando, JJ., concur.

[1] 15 days.

[2] See Section 1, Rule 37, Rules of Court.

[3] Antonio v. Jacinto, L-18569, June 22, 1965.

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.