

ENCARNACION CAPARAS, PETITIONER, VS. NICASIO YATCO, AS JUDGE OF THE COURT OF FIRST INSTANCE OF LAGUNA, AND DOMINADOR ALVELA, RESPONDENTS.*G. R. No. L-2834. May 23, 1951*

Ponente: BAUTISTA ANGELO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/ebcbf820b612/>**BAUTISTA ANGELO, J.:**

By virtue of a writ of execution issued in civil case No. 9013 of the Court of First Instance of Laguna, the provincial sheriff advertised the sale at public auction of the mortgaged property to satisfy the judgment rendered therein, and the property was sold to petitioner as the highest bidder for the sum of P7,969.40. After the sale, respondent Dominador Alvela filed a motion in said case stating that out of the proceeds realized there was a surplus of P1,084.55 over the amount of the judgment that has not been turned over to him, in view of which the court ordered that said amount of P1,084.55 be delivered by petitioner to respondent as judgment debtor. As the order was not heeded, respondent prayed for a writ of execution which was granted. Because of the failure of the petitioner to comply with the writ, respondent moved for a peremptory order to compel her to return the aforesaid amount of P1,084.55, which his Honor, Judge Nicasio Yatco, granted, giving petitioner five days to do so. Petitioner again failed, and on February 9, 1949, Judge Yatco declared her in contempt of court under rule 64, section 3(5), and ordered her arrest and confinement until she complies with the order of the court. Hence this petition for prohibition with preliminary injunction. The injunction was granted upon the filing by petitioner of a bond in the amount of P500.

Petitioner claims that the order of the respondent Judge dated February 9, 1949, is null and void because (a) the amount of P1,084.55 subject of this incident is being held by petitioner "to settle the junior encumbrances on the additional mortgages of P300 and P400 of the respondent Dominador Alvela with the petitioner pursuant to the provisions of section 4 of the Rule 70 of the Rules of Court;" and (b) assuming *arguendo* that petitioner is liable for the return of said amount, the same represents only a debt of petitioner in favor of respondent and failure to do so does not amount to a criminal contempt within the purview of Article III, section 1, par. 12, of the Constitution.

There is no merit in this contention. The two obligations of P300 and P400 which petitioner claims are indebted to her by respondent do not partake of the nature of junior encumbrances referred to in rule 70, section 4, of the Rules of Court because they are not covered by the deed of mortgage which was foreclosed in civil case No. 9013 and for which the property of respondent was sold to petitioner for the sum of P7,969.40. They are obligations distinct and independent of the mortgage credit involved in said civil case. In fact those obligations were involved in another civil case (No. 9096) pending in the same court, which had already been dismissed when petitioner withheld the surplus of P1,084.55. It was, therefore, her duty to return such surplus to respondent who, as mortgagor, was the person entitled to it (Rule 70, section 4). And when she failed to do so, and the court ordered her to comply with the rule, and she flagrantly disobeyed the order, she incurred in contempt of court. The court acted properly in punishing her pursuant to rule 64, section 3(6) of the Rules of Court.

The petition will be dismissed, with costs against petitioner. The preliminary injunction is hereby dissolved.

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