

AMBROCIO DE LA CRUZ AND PAULINA SIGURADO, PLAINTIFFS AND APPELLANTS, VS. PRIMITIVA BERROYA AND ELISA MANALO, DEFENDANTS AND APPELLEES.*G.R. No. L-21950. December 28, 1966*

Ponente: DIZON, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/f89fbbf4030f/>**DIZON, J.:**

On June 17, 1963, appellants commenced Civil Case No. 54255 in the Court of First Instance of Manila to enforce the subsidiary civil liability under Article 103 of the Revised Penal Code of the herein appellees, Primitiva Berroya and Elisa Manalo, alleging that sometime on January 6, 1960, the latter's jeepney, while running along Juan Luna St., Tondo, Manila, driven by Igmidio Senin, hit appellants' child, resulting in his death; that Senin was charged in the Court of First Instance of Manila with the crime of homicide thru reckless imprudence (Criminal Case No. 50955) and, after due trial, was found guilty and sentenced to suffer the corresponding penalty of imprisonment and to indemnify appellants in the amount of P6,000.00, with subsidiary imprisonment in case of insolvency; that on appeal, the Court of Appeals, while modifying the penalty of imprisonment, affirmed the award of civil indemnity; that, after the decision had become final and executory, a writ of execution was issued against the driver for his civil liability but the same was returned unsatisfied.

Appellees filed a motion to dismiss the complaint on the following grounds: (1) That the claim or demand set forth therein had been released, as evidenced by the document thereto attached entitled "Release of Claim" executed by appellants on January 8, 1960, wherein it was stated that "for the sole consideration of Seven Hundred and fifty Pesos (P750.00) Philippine currency the receipt I whereof is hereby acknowledged, I/we Ambrocio de la Cruz and Paulina Sigurado x x x x do hereby release and forever discharge Igmedio Senin, E.N.P. Berroya Trans. Inc. of and from all actions, claims, demands and rights of action whatsoever that now exist or may hereafter develop and particularly on account of all known, unknown, and unanticipated injuries, damages and/or losses arising out of and as a consequence of an accident that occurred on or about 8:30 P.M., January 6, 1960 x x x"; and (2) that the cause of action did not accrue against them on the ground that the owner and operator of the jeepney concerned was E.N.P. Berroya Trans., Inc., appellees being merely officers of said corporation.

In their opposition to said motion, appellants alleged that, the release not having been set up during the hearing of the aforesaid criminal case, appellees were barred from raising the same in the present case, in accordance with Section 6 of Rule 10 of the Rules of Court on compulsory counterclaims. They also prayed to be allowed to amend their complaint by changing the surname of appellee herein Elisa Manalo to Elisa Nolasco.

Finding appellees' motion meritorious, the court, on July 22, 1963, issued the appealed order of dismissal. Hence the present appeal.

Appellants now claim that the lower court erred in dismissing their complaint, firstly, because the alleged release of their claim is not a proper ground for a motion to dismiss but should have been pleaded as a matter of defense, and secondly, that said defense, if invoked in appellees' answer, was already barred because it was not raised—as a

compulsory counterclaim—in the criminal case filed against the driver Igmidio Senin.

We find both contentions to be without merit.

Under the provisions of Rule 16, Section 1, paragraph (h) of the Rules of Court, payment, release, waiver, etc. of the claim sought to be enforced is a ground upon which a motion to dismiss may be based. In the present case appellees relied upon release of the claim in their motion to dismiss to which they attached the written release of claim. It does not appear that appellants had ever put in issue, as required by the Rules, the genuineness of said public document according to whose terms appellants had completely considered themselves fully paid as far as their right to indemnity was concerned.

It is true that appellees were not expressly named in the abovementioned instrument, but it is clear that the release of the party primarily liable necessarily means likewise the release of those who might be held subsidiarily liable. With respect to the second issue, we need only say that the release of the claim is not in the nature of a compulsory counterclaim but a matter of defense. Consequently, appellants' contention that the release may not now be invoked by appellees because it is barred, the same not having been invoked as a compulsory counterclaim in the criminal case against the driver, is without merit.

WHEREFORE, the appealed order being in accordance with law, the same is hereby affirmed, with costs.

Concepcion, C.J., Reyes, J.B.L., Regala, Makalintal, Bengzon, J.P., Zaldivar, Sanchez and Ruiz Castro, 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.