

VICENTE LOPEZ, PLAINTIFF AND APPELLEE, VS. ROSENDO HERNAEZ, DEFENDANT AND APPELLANT.

G.R. No. 10418. December 23, 1915

Ponente: ARELLANO, C.J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-10418/>

ARELLANO, C.J.:

On October 23, 1912, Rosendo Hernaez executed and signed the following instrument:

"Whereas, in the Court of First Instance of Iloilo there is a case pending between the undersigned, as defendant, and Vicente Lopez, as plaintiff, for the recovery of a certain sum of money, and whereas I have come to an agreement with the said plaintiff with respect to the payment of the sum aforementioned; therefore, I promise to pay to Mr. Vicente Lopez and to his order in the city of Iloilo, the sum of P4,925 in the following manner: On the 1st day of January, 1913, the sum of P1,500 Philippine currency, or before said date, provided Don Maximo Jalandoni, residing in Jaro, Iloilo, makes payment of the value of the lands of the estate of the deceased Juana Espinosa, situated in the sitio of Imbang, Occidental Negros. The remaining sum of P3,425, which is the principal and the legal interest, shall be paid in the city of Iloilo during the month of May, 1914, and shall bear interest at the rate of 6 per cent per annum from this date until its complete payment; provided, however, that in case the first sum is not paid at maturity, I promise to pay to Mr. Vicente Lopez the sum of P150 as losses and damages, and the sum of P400 as losses and damages in case of failure to pay the second sum.

"Iloilo, this 23d day of October, 1912.

(Sgd.) "R. HERNAEZ."

At the foot of the document there appears this memorandum signed by Vicente Lopez: "I have received from Don Rosendo Hernaez the sum of P1,500, corresponding to the first installment due upon this promissory note.

"October 24, 1912. (Sgd.)

"VICENTE LOPEZ."

On June 2, 1914, Vicente Lopez entered proceedings for the collection of the second installment—that is, for the P3,425, together with the interest thereon at 6 per cent per annum from the 23d of October, 1912, the P400 stipulated as losses and damages, and the costs of the suit.

And the Court of First Instance of Iloilo, rendering judgment in accordance with the prayer of the complaint, ordered defendant to pay to plaintiff P3,425, with interest thereon at 6 per cent per annum from October 23, 1912, until it was wholly paid; P400, as indemnity for losses and damages, with interest thereon at 6 per cent from July 1, 1914; and the costs of the trial.

Defendant appealed.

The first assignment of error cannot be sustained, in so far as it is alleged that appellant was ordered to pay

interest and, besides, indemnity for damages, contrary to the provisions of article 1152 of the Civil Code, to wit, that "the penalty shall substitute indemnity for damages and the payment of interest in case of non fulfillment," inasmuch as, immediately following this citation, the same article reads "should there be no agreement to the contrary." And it was stipulated: (1) That the sum of P3,425 "shall bear interest at the rate of six per cent per annum from this 23d day of October, 1912, until its complete payment * * *," and (2) "the sum of P400 as losses and damages in case of failure to pay the second sum." Such is the law made by the contracting parties.

Neither can the second assignment of error be sustained,, because the sum of P400 was not stipulated as payment of costs but merely as indemnity for loss and damage which, whether proceedings were brought or not, the debtor should pay if he did not perform his contract. Then it would become necessary to bring: an action for debt, in which case the question of costs would arise.

The judgment appealed from is affirmed, with the costs against the appellant. So ordered.

Torres, Johnson, Carson, Trent, and Araullo, JJ., concur.

Judgment 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.