

**MARIA MORTERA DE ECEIZA, ACCOMPANIED BY HER HUSBAND,
MANUEL ECEIZA, PLAINTIFFS AND APPELLANTS, VS. THE WEST OF
SCOTLAND INSURANCE OFFICE, LTD., REPRESENTED BY LUTZ
& CO., DEFEND...**

G.R. No. 10631. October 13, 1917

Ponente: STREET, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-10631/>

STREET, J.:

In this case the plaintiffs, Maria Mortera de Eceiza and Manuel Eceiza, her husband, instituted an action against defendant, The West of Scotland Insurance Office, Ltd., to recover upon two fire-insurance policies issued by the defendant company in favor of the plaintiff Maria Mortera de Eceiza for the sum of P5,000 each, one policy representing insurance upon a house, and the other representing insurance upon the furniture, personal property, and effects contained therein—all of which were alleged to have been destroyed by fire. At the original hearing the Court of First Instance gave judgment in favor of the plaintiff for the sum of P8,500, with interest and costs. This judgment was entered upon April 24, 1913, and was soon thereafter satisfied in full by the defendant company.

Upon September the 24, 1913, said company appeared by its attorney and presented a motion to the effect that the judgment which had been rendered upon April 24 preceding be vacated and that it be granted leave to present an amended answer and also a counterclaim for relief against the plaintiffs. This motion was supported by affidavits tending to show that the fire in question had been deliberately set by the plaintiffs or a person acting upon their procuration, and that as preliminary to the burning of the house many of the articles of personal property which were covered by the insurance had been removed. The affidavits also showed that the defendant company was ignorant of these facts at the time of the original trial, though due diligence had been used in preparing its defense; that the defendant company remained in ignorance of such facts until about August 30, 1913; and that it had thereupon proceeded with diligence in asking for the relief contemplated in this motion. The court below granted the motion, opened its previous judgment of April 24, 1913, and permitted the defendant to file an amended answer. This answer set up the matter of defense exhibited in the affidavits mentioned above, and in it was contained a prayer for affirmative relief asking for judgment for the amount which had been paid to the plaintiffs in satisfaction of the judgment of April 24, 1913. After answer had been made by the plaintiffs to the prayer for affirmative relief, proof was taken upon the new issues thus introduced into the case. At the hearing the court in view of the additional evidence reversed its prior decision and gave judgment in favor of the defendant for the recovery of the amount paid by it under the original judgment, with interest and costs. From this judgment the plaintiffs have appealed.

The testimony submitted at the second trial in the court below was in our opinion amply sufficient to justify the reversal of the judgment, as the fraud alleged was fully proved. In fact the attorney for the appellants does not assign any specific error before this court upon the point of the sufficiency or insufficiency of the evidence; and the principal question to be considered here is whether or not the Court of First Instance had power to allow the case to be opened and reheard upon newly discovered evidence five months after the original judgment had been

entered.

The only provision in our statutes under which such action can be justified is found in section 113 of the Code of Civil Procedure which states in substance that the court may relieve a party from a judgment, order, or other proceeding taken against him through "his mistake, inadvertence, surprise or excusable neglect," provided application therefor be made within a reasonable time, in no case exceeding six months, after such judgment, order, or proceeding is taken. This section is frequently invoked to relieve a party from the effect of judgments entered upon default and other orders made during the course of litigation; and we have no reason to doubt its applicability to the situation which arose in this case. The defendant appeared in the case from the beginning and made a defense, it is true, but the real and efficacious defense was not asserted because the facts constituting the defense were then unknown. The failure to present this defense was clearly an "excusable neglect," for the defense had its basis in a secret and felonious act committed by the plaintiffs. Knowledge of such a defense cannot be imputed to a defendant company; and it can not be properly held that the company was bound to discover such defense and present the proof of it at the original trial. All that is required of any party is that when knowledge of such a defense comes to him he should exert himself with diligence to obtain relief within the time allowed by law. As has been said by a great American master of the principles of equity jurisprudence:

"It is true that if a party does not use reasonable diligence to obtain testimony material to his cause, it is a neglect for which he must suffer; and he shall not be allowed to renew the litigation on pretense of the discovery of new evidence which he ought to have had before the first trial. But this rule itself has reasonable limits. The testimony must have been within the knowledge of the party, or he must have had some clew to guide him in the search, before he can be said to have neglected the proper steps to obtain it." (Chancellor Desaussure in *Winthrop vs. Lane*, 3 Desaussure [S. C], 310.)

Two very instructive American cases have come to our attention which are well worthy of consideration in this connection. The first of these cases is *Taylor vs. Nashville etc. Railroad Co.* (86 Tenn., 228). It appeared there that the holder of certain bonds issued by the city of Nashville brought suit thereon and recovered judgment. Later these same bonds were stolen from the records of the court in which the judgment had been rendered, and an action was instituted upon them a second time in another court. When the case came up for trial the bonds were exhibited in court; and as they appeared in every respect regular, and the attorney for the city knew of no defense, and was ignorant of the fraud which was being practiced, he permitted judgment to be taken upon them without opposition. It further appeared that the nominal plaintiff, who pretended to be a resident of a remote state, was a fictitious personage, as was also the principal attorney of record; and the lawyer who appeared in court for the plaintiff had been only retained that day and was himself apparently deceived as to the identity of his supposed client. There were present therefore in this case not only the fraud inherent in the cause of action but a fraud practiced upon the court in the conduct of the litigation.

The other case is that of *Ocean Insurance Co. vs. Field* (2 Story, 59; 18 Fed. Cases No. 10406). The facts of this case were remarkably similar to those of the case at bar. A policy of marine insurance had been issued in favor of the owner of a ship. The vessel was lost, and the insurance company, suspecting that something was wrong, refused payment. In an action at law the defense was made that the loss was fraudulent and that the vessel had been deliberately cast away. Some evidence tending to show this was submitted, but the court gave judgment for the plaintiff; and that judgment was paid. Later the insurer obtained information showing that the vessel had been deliberately wrecked by the insurer by boring holes in her bottom. A bill was thereupon filed to annul the judgment previously entered upon the policy of insurance and to recover the amount paid out by the company in satisfaction thereof. Upon demurrer it was held that the bill stated a good cause of action. In this case Justice Story said:

"Then, as to the main objection, on the ground of the fraudulent casting away of the vessel, and especially of boring holes in her, it is suggested, that in point of fact, the defense of fraud was made at the trial, and did not prevail. * * * But the parties admit, for the sake of the argument, that the point of fraud was made at the trial; but that it was in effect founded upon circumstances of suspicion, not sustained by any clear and satisfactory proofs; and that the boring of the holes was not known or suspected at the trial; and that it was not and could not, therefore, then be a matter of controversy. Now, I agree that mere cumulative evidence to the fact of fraud, or any other leading fact not discovered since the trial, will not ordinarily constitute any just ground for the interference of a court of equity to grant relief, for the solid reason that it is for the public interest and policy to make an end to litigation, or, as was pointedly said by a great jurist, that suits may not be immortal while men are mortal; but I do not know that it has ever been decided, that, in an assignable case, where the defense has been imperfectly made out at the trial, from the defect of real and substantial proofs, although there were some circumstances of a doubtful character, or some presumptions of a loose and indeterminable bearing before the jury, and afterwards newly-discovered evidence has come out, full, and direct, and positive, to the very gist of the controversy, a court of equity will not interfere to grant relief and to sustain a bill to bring forth and try the force and validity of the new evidence." In both of these cases it was held that the complaining party was entitled to relief, and though the proceeding in those cases was by original bill in equity, and not by motion as in the case at bar, those precedents are of much weight upon the question as to what constitutes the excusable neglect contemplated in our statute; for it is obvious that no relief would have been given in those cases if the court had not been convinced that the failure of the complaining parties to make adequate defense in the original actions was excusable under the facts there presented.

In exercising the power to relieve a party from a judgment under the authority contained in section 113 of the Code of Civil Procedure, in a case where the motion is based upon newly discovered evidence, the judges of the Courts of First instance should not be unmindful of the necessity of maintaining the principle that litigation once fairly determined by a lawful judgment should not be touched or set aside without good reason. It must not only appear that the neglect of the party applying for relief was an "excusable neglect" but he should be required to show diligence in the prosecution of his rights after the evidence is discovered. Furthermore the newly discovered evidence exhibited in the application must be so controlling in its effect that it would, if not met, probably induce a different conclusion from that reached at the original hearing. The finality of litigation and the stability of judicial decision both require that conclusions once reached as the outcome of legal proceedings should not be changed except where such step seems necessary in order to prevent a miscarriage of justice. Motions of this character are, therefore, not to be especially favored by the courts. One salutary limitation upon the right to obtain a rehearing on the ground of newly discovered evidence is found in the rule that cumulative evidence relating to facts that were in issue at the first hearing will not usually suffice. The discovery of new evidence, or of new witnesses, impeaching witnesses examined upon the original hearing or tending to show subornation of perjury of such witnesses is not ordinarily considered sufficient to justify relief. This rule applies with special force where the credibility of the witnesses in question has been directly attacked in the original suit. More or less evidence comes to light in every case after a trial and if a cause were allowed to be reheard on merely cumulative proof, the original hearing would tend to become a mere preliminary skirmish. Besides too great liberality in allowing causes to be opened in order to allow the introduction of cumulative evidence would hold out to the parties the temptation to tamper with witnesses for the purpose of supplying defects of proof.

The circumstance that the original judgment in this case had been satisfied by the defendant prior to the time when the motion of September 24 was made does not in any wise prejudice its right to have the judgment opened and reversed; and upon reversal it is proper to render judgment against the plaintiffs for that money. A party to any action who obtains satisfaction before the cause is finally and irrevocably determined takes subject to the

contingency that, if the judgment is finally reversed, he must return what he has prematurely received.

From statements contained in the brief of the attorney for the plaintiffs, as well as from an unauthenticated document which appears among the papers transmitted to this court, we understand that in the autumn of 1913, the plaintiffs were prosecuted in the Court of First Instance of the city of Manila upon a charge of arson, based upon the burning of the house which was the subject of insurance in this case. In that prosecution these persons were acquitted. It is therefore now urged in their behalf (1) that this acquittal is a conclusive determination that they were not guilty; (2) that the existence of any civil liability consequent upon such act of incendiarism is thereby made impossible; and (3) that consequently the plaintiffs can not be required to refund the money paid to them by the defendant. It is, however, unnecessary for us to enter into discussion of this question, as it is evident that, even if the plaintiffs were correct upon the point of law involved, they are not in a position to avail themselves of their acquittal in the criminal proceeding, because they have neither pleaded nor properly proved that fact in this case. The decision of the Court of First Instance of Manila acquitting them of the charge of arson is said to have been rendered upon November 19, 1913. The supplemental or amended answer of the defendants, in which is contained their counterclaim praying for the recovery of the money which they had paid, was filed in the present cause upon December 15, 1913; and upon February 9, 1914, the plaintiffs filed their replication thereto. This replication contains a general denial of the facts alleged by way of counterclaim, and in particular denies the right of the defendant to recover lawyer's fees; but nothing is said about their acquittal in the criminal proceeding. Now, whatever may be the law as regards the principle of liability involved, there can be no question but that this defense derived from acquittal is new matter not involved in any of the issues raised by the pleadings previously filed in the cause; and it is clear that such matter must be especially pleaded. This practice was followed in *Almeida Chan Tanco vs. Abaroa* (8 Phil. Rep., 178), and in *Bachrach vs. British American Assurance Co.* (17 Phil. Rep., 555); and we think that, upon wellsettled principles of procedure, the failure to plead this matter deprives the plaintiffs of the right to rely upon it.

But assuming that the judgment of acquittal had been properly pleaded, we find in the record no sufficient competent proof that any such judgment was rendered. The fact of acquittal in the criminal prosecution was not developed in the oral testimony in the present case, though we find a number of indirect allusions in the testimony from which it may be inferred that a criminal case, No. 10921, had been conducted somewhere in which some of the witnesses in this case had previously given their testimony. We also find inserted among the papers which have been transmitted to this court a document which purports to be a copy of the decision of the Court of First Instance of the city of Manila in the case of *United States vs. Manuel Eceiza et al.* This document was not submitted as proof in the Court of First Instance in the present cause; and it is not accredited as an exhibit introduced with the approval of that court. It is obvious that this court cannot consider papers of this character as proof; and as we do not take judicial notice of proceedings in the various courts of justice in these Islands, it results that for the purposes of this litigation there is no evidence before us from which we could find as a fact that the plaintiffs had ever been impleaded in any criminal action or acquitted of the crime of arson in such a proceeding.

It results from the foregoing opinion that there was no error in the judgment entered in the Court of First Instance in this cause; and the same should, therefore, be affirmed, with costs of this instance against the appellant. So ordered.

Arellano, C. J., Johnson, Carson, and Araullo, JJ., concur.

CONCURRING**MALCOLM, J.,**

I concur in the resolution of the case. I agree also with what is said in the decision relative to opening judgment on the ground of newly discovered evidence. I do not agree as to the rule laid down that a party to a civil action who would rely upon a judgment of acquittal rendered in a criminal case in which he was accused of crime must plead and prove the fact of such acquittal. Even going to the length of admitting that acquittal in a criminal prosecution can act as an estoppel to a civil action, it would still be the duty of the appellant court on the slightest suggestion to send for the record in the criminal case. In the present instance we find both counsel for appellants and appellee advancing or answering arguments relative to the criminal prosecution for arson, and we discover the judgment of acquittal in this case attached to the record and thus presumably properly before us. This being true, it then behooves us to decide the question of whether judgment of acquittal in a criminal prosecution is or is not a bar to a civil action.

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.