

MACARIO LAVITORIA ET AL., PETITIONERS, VS. THE JUDGE OF THE COURT OF FIRST INSTANCE OF TAYABAS AND THE DIRECTOR OF LANDS ON BEHALF OF THE GOVERNMENT OF THE PHILIPPINE ISLANDS, R...

G. R. No. 10659. November 11, 1915

Ponente: JOHNSON, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-10659/>

JOHNSON, J.:

This is an action of prohibition. It is an original action in the Supreme Court. It was commenced on or about the 1st of March, 1915. Its purpose was to secure an order prohibiting the respondents from proceeding with the hearing of a certain cause pending in the Court of Land Registration. The facts, as they appear from the record, are as follows:

First. That on or about the 11th of August, 1913, Charles H. Sleeper, as Director of Lands, presented a petition in the Court of Land Registration, in representation of the Government of the Philippine Islands, for the purpose of registering a certain parcel or parcels of land, composed of about 300 hectares, located in the municipality of Candelaria, Province of Tayabas, in accordance with the provisions of section 61 of Act No. 926. (See Exhibit A.)

Second. That on the 2d of March, 1914, the AttorneyGeneral presented exactly the same petition which had theretofore been presented by the Director of Lands. (Exhibit B.) No reason appears of record why the second petition was presented.

Third. That on the 21st of September, 1914, after said cause had been transferred from the Court of Land Registration to the Court of First Instance of the Province of Tayabas, by virtue of Act No. 2347, of July 1st, 1914, the clerk of said court issued a notice to the Director of Lands, in accordance with section 20 of said Act, notifying said Director that said cause had been set down for hearing in the municipality of Lucena, on the 23d of November, 1914, at eight o'clock a. m. (Exhibit C.)

Fourth. That on the 26th of September, 1914, the general notice required by the Land Registration Law was issued by the chief clerk' of the General Land Registration Office, notifying all persons that said cause had been set down for hearing at 8 o'clock a. m. on the 23d of November, 1914. (Exhibit D.)

Fifth. That on the 17th of October, 1914, the sheriff of the Province of Tayabas certified that he had, on the 14th of October, 1914, caused a certified copy of the notice to all the parties to be posted in a conspicuous place on each parcel of the land in question, as well as in a conspicuous place on the chief municipal building of the said municipality of Candelaria. (Exhibit E.)

Sixth. That on the 27th of October, 1914, the chief of the General Land Registration Office under the torrens system, presented a certificate that he had duly complied with the provisions of section 32 of Act No. 496. (Exhibit F.)

Seventh. That on the 2d of October, 1914, a number of persons, through their attorneys, Reyes & Millar, presented an answer to the petition originally presented and described in paragraph 1 above, alleging that they were the only and absolute owners, in common, of the property described in said petition, and that no other person had any right or legitimate interest in the same. (Exhibit G.)

Eighth. That on the 23d of November, 1914, at 8 o'clock a. m., the Honorable Isidro Paredes, judge, entered an order of general default against all persons who had not appeared on said date. According to said order the only persons who had appeared were Gregorio Suaverdes, Florentino Vensuela, Abdon Romulo, Cornelio de Guzman, Espiridion Duñe, Macario Lavitoria, Regino Lavitoria, Bernarda Lavitoria, Vidal Lavitoria, Ariston Lavarro, Sofia Lavarro, Isidro Labares. (See Exhibit H.)

Ninth. That on the 1st of December, 1914, the Honorable Isidro Paredes, judge, after hearing the respective parties, rendered a decision in which he ordered said parcel of land to be registered in favor of Macario Lavitoria, Regina Lavitoria, Bernarda Lavitoria, Vidal Lavitoria, Ariston Lavarro, Sofia Lavarro, and Isidro Labares. (Exhibit I.)

Tenth. That on the 8th of December, 1914, the Honorable Ramon Avanceña, Attorney-General, presented a motion for a new trial, and asked that the decision of December 1st, 1914, be declared to be without effect. Said motion was based upon the fact that neither the Attorney-General nor the Director of Lands had received notice of the date fixed for the trial of said cause. (Exhibit J.)

Eleventh. Said motion of the Attorney-General was brought on for hearing and granted by the Honorable Isidro Paredes, upon the 7th of January, 1915. (Exhibit L.)

Twelfth. On the same day and within one half hour after the decision granting the new trial mentioned in paragraph 11, the attorneys for the respondents presented a verbal request for a reconsideration of said order granting the new trial, which verbal request for a reconsideration was denied upon the 7th of January, 1915. (Exhibit LL.)

By reference to the above facts, it will be noted:

First. That the decision of the lower court was rendered on the 1st of December, 1914.

Second. That the motion for a new trial by the Attorney-General was made on the 8th of December, 1914.

Third. That said motion was based upon the fact that neither the Attorney-General nor the Director of Lands had received notice of the trial of the cause.

Fourth. That said motion of the Attorney-General was considered and granted upon the 7th of January, 1915.

The petitioners herein now asked that the lower court be prohibited from proceeding with the new trial in said cause, for the reason that the court was without jurisdiction to consider and decide the motion for a new trial, or to grant a new trial, after the expiration of thirty days from the notification of the decision.

Evidently the petitioners have not read the record of the court below nor the exhibits which they themselves present. Exhibit I (the decision of the lower court) shows that the decision of the lower court was rendered on the 1st of December, 1914, while the motion for a new trial was made by the Attorney-General seven days thereafter, or upon the 8th of December, 1914. The thirty days' therefore concerning which the petitioners complain, had not passed. It is true that the judge did not pass upon said motion for a new trial until the 7th of January, 1915. While it is true that more than thirty days elapsed from the date of the decision of the court until the decision on the motion for a new trial, yet, nevertheless, we have decided in numerous cases that the time during which the court considers a motion for a new trial is not counted nor included in the time within which a decision of the Court of

First Instance becomes final. Therefore the time during which the court was considering the motion for a new trial, from December 8, 1914, to January 7, 1915, must be eliminated from the time within which the decision of the lower court would otherwise become final. (Garcia vs. Ambler and Sweeney, 4 Phil. Rep., 81; De la Cruz vs. Garcia, 4 Phil. Rep., 680; Santos vs. Villafuerte, 5 Phil. Rep., 739; Paez vs. Berenguer, 6 Phil. Rep., 521.) The rule that the time during which the judge is considering a motion for a new trial shall not count against the time within which the judgment shall become final has been specifically applied to decisions in the Court of Land Registration, notwithstanding the provisions of Act No. 1484. (Paez vs. Berenguer, supra.) In view of the fact that the motion was presented within time and before the decision became final, the court had jurisdiction and, having jurisdiction to consider said motion, the present application must be denied.

Parties have a right to be present at the trial of their causes, either by themselves or by their attorneys. They are also entitled to reasonable notice of the time fixed for the trial. If the court discovers that either of the parties to the action has not been notified of the trial, he may, on his own motion, grant a new trial. (Muerteguy & Aboitiz vs. Delgado, 22 Phil. Rep., 109.)

The record fully discloses facts sufficient to justify the lower court in the exercise of its lawful powers in granting a new trial in the present case. The demurrer is therefore hereby sustained and the petitioners are hereby given ten days within which to amend their petition, if they so desire. If an amended petition is not so presented, then let an order be entered denying the remedy prayed for, with costs. So ordered.

Arellano, C. J., Torres, Carson, Moreland, and Araullo, 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.