

S. CHASE DE KRAFFT, PLAINTIFF AND APPELLANT, VS. APOLINAR VELEZ, AS ASSIGNEE IN BANKRUPTCY OF THE PROPERTY OF TIN INSOY, DEFENDANT AND APPELLEE.

G.R. No. 11071. August 26, 1916

Ponente: JOHNSON, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-11071/>

JOHNSON, J.:

The only question presented by this appeal is whether or not a separate and independent action may be brought against an assignee in bankruptcy for the purpose of recovering personal property which the latter held in his possession by virtue of bankruptcy proceedings. Must such an action be instituted as an incident in bankruptcy proceedings?

This action was commenced in the Court of First Instance of the Province of Misamis on the 12th of January 1915. The plaintiff alleged in his petition that the defendant was an assignee in the bankruptcy proceedings of the said Tin Insoy; that said assignee had been legally appointed and had duly qualified as such assignee on the 17th of September, 1914; that said assignee had been appointed in insolvency proceedings in the Court of First Instance of that province; that he, the petitioner, was the legitimate owner of all of the merchandise set forth in the inventory, which the said Tin Insoy had united with his petition of insolvency.

It must be kept in mind that this action is a separate and independent action and had no relation whatever with the insolvency proceedings.

The plaintiff admitted that the said Tin Insoy had been declared an insolvent debtor by the Court of First Instance in which said action was brought, on the 2d of February, 1914.

To said petition the defendant demurred. Upon the issue presented by the petition and demurrer, the question was submitted to the court, which after hearing the arguments of the respective parties, declared:

"That it was the intention of the law-making power, in enacting the Bankruptcy Law (Act No. 1956) to provide an adequate remedy therein for all creditors of a person who becomes insolvent, and that an adequate, speedy, and inexpensive remedy has been afforded by the law to the plaintiff, whose rights can be fully adjudicated and protected under section 48 in connection with section 43, and section 36, paragraph 5.

"That all other creditors of the insolvent Tin Insoy are necessary parties to a proceeding of this character, as this plaintiff at bar is undertaking by this proceeding to take the whole remaining assets of this insolvent debtor in settlement of his individual claim, and without notice to other persons in interest whose rights must necessarily be adjudicated in this proceeding before the prayer of the complaint can be granted.

"Accordingly it is ordered that this proceeding be dismissed, with costs against the plaintiff, and without prejudice to the right of the plaintiff to present his claim to the court in the bankruptcy proceedings pending in this court, as case No. 2019, in which the defendant at bar is the assignee."

From that judgment the defendant appealed to this court.

Upon a consideration of the questions involved, in relation with the provisions of said Act No. 1956, with special reference to sections 43 and 48, and other provisions of said Bankruptcy Law (Act No. 1956) we are of the opinion that it was the intention of the legislative department of the Government to require all claims against a bankrupt and the assignee in bankruptcy to be presented in one action of insolvency. In that conclusion we find ourselves supported in numerous decisions of the Supreme Court of the United States, under a similar bankruptcy law. (White vs. Schloerb, 178 U. S., 542; Whitney vs. Wenman, 198 U. S. 532; Murphy vs. John Hofman Co., 211 U. S. 562; Hebert vs. Crawford, 228 U. S., 204; Clay vs. Waters 178 Fed. Rep., 385; Turrentine vs. Blackwood, 125 Ala., 436; Crosby vs. Spear, 98 Me., 542; De Amuzategui vs. Macleod, 33 Phil* Rep., 80; Bastida vs. Penalosa, 30 Phil. Rep., 148.)

In the case of Murphy vs. Hofman, the court said:

"Where the property in dispute is in the actual possession of the court of bankruptcy, there comes into play another principle, not peculiar to courts of bankruptcy, but applicable to all courts, Federal or State. Where a court of competent jurisdiction has taken property into its possession, through its officers, the property is thereby withdrawn from the jurisdiction of all other courts. The court, having possession of the property, has an ancillary jurisdiction to hear and determine all questions respecting the title, possession or control of the property. * * * The jurisdiction in such cases arises out of the possession of the property and is exclusive of the jurisdiction of all other courts, although otherwise the controversy would be cognizable in them. (Wabash R. Co. vs. Adelbert College, 208 U. S., 38.) Accordingly, where property was in the possession of the bankrupt at the time of the appointment of a receiver, it was held that the bankruptcy court had jurisdiction to determine the title to it as against an adverse claimant, and that the receiver had no right to deliver it to him without the order of the court (Whitney vs. Wenman, supra.)"

In the present case the defendant is the assignee in bankruptcy, an agent of the bankruptcy court, and the property which he holds is held for the bankruptcy court and for the benefit of all persons who are interested in the settlement by bankruptcy proceedings. No other court has any power to render any judgment with regard to said property. The proper remedy of the plaintiff in the present case is to ask for a hearing in the bankruptcy proceedings.

The complaint or petition in the present case shows upon its face that the property sought to be recovered is in the hands of the assignee in bankruptcy, as an officer of the bankruptcy court. In view of that fact and in view of the provisions of bankruptcy law (Act No. 1956) we are of the opinion and so hold, that no error was committed by the lower court in sustaining the demurrer. Its judgment therefore upon said demurrer is hereby affirmed with costs. So ordered.

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

Moreland, J., agrees to the disposition of this case. (Amuzategui vs. Macleod, 33 Phil. Rep., 80; Bastida vs. Peñalosa, 30 Phil. Rep., 148.)

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.