

SIXTO CASTRO, ET AL., DEFENDANT AND APPELLEES, VS. JUSTO EVANGELISTA, ET AL., DEFENDANTS AND APPELLEES.*G.R. No. 11506. May 26, 1959*

Ponente: BAUTISTA ANGELO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-11506/>**BAUTISTA ANGELO, J.:**

Plaintiffs brought this action against defendants before the Court of First Instance of Nueva Ecija for the annulment of a sale made by the provincial treasurer of said province of a parcel of land for the sum of P302.31 to Justo Evangelista for failure to pay the tax due thereon, and in the alternative, they asked that they be allowed to redeem the same from the present owner by virtue of the consignment made by them with the clerk of court on March 5, 1943 of the redemption money amounting to P345.00.

Defendants set up in their answer the following defenses: (1) that the court has no jurisdiction over the subject matter of the action (2) that the cause of action has already prescribed; and (3) that plaintiffs are now in estoppel to recover the property in question. Later, however, defendants filed a motion to dismiss wherein they reiterated the same ground constituting their special defenses. On July 30, 1956, the court issued an order sustaining the motion to dismiss without pronouncement as to costs. Plaintiffs appealed on purely questions of law. The order of dismissal of the court a quo reads as follows:

"This is a motion to dismiss the complaint filed by the defendants and it appearing that another case between the same parties and about the same subject matter and the same causes of action was filed with this Court on October 19, 1942, being Civil Case No. 12, which was already decided by this Court upon a stipulation of facts on May 25, 1943, which decision was appealed to the Court of Appeals, the same is already res adjudicata, taking into consideration that neither the plaintiffs nor the defendants took the necessary steps to reconstitute the record of the said case within the period prescribed by Act No. 3110, thereby waiving the said reconstitution under Section 29 thereof.

"The filing of the present action, which took place on November 28, 1955,, falls within the statute of limitations, for the failure of the plaintiffs to comply with the reconstitution law does not entitle them to the benefits of Section 31 of the said Act, which provides that the time that has elapsed from the initiation of destroyed records until the time their reconstitution is declared impossible shall not be counted against the interested parties or his heirs or other, successors in interest. Since 1943, therefore, until the filing of this action on November 28/ 1955, more than ten years have elapsed, for which reason this action is now barred by the statute of limitations."

It would appear that the trial court dismissed the case, on two grounds: (1) plaintiffs originally filed a similar case before the same court on October 19, 1942 which was decided on May 25, 1943 in favor of the plaintiffs and which later appealed by defendants to the Court of Appeals, and since neither appellants nor appellees took steps to reconstitute the case then on appeal within the period prescribed by Act No. 3110, the court considered the judgment rendered in said case as a bar to the present under the principle of res judicata; and (2) since the present action was filed on November 28, 1955, or more than 10 years after the filing of the original action in 1942, the

court considered the present action as prescribed, the period intervening from the initiation of the destroyed record to the filing of the present action not having been interrupted in view of the failure of plaintiffs to undertake its reconstitution as prescribed by Act No. 3110.

With regard to the first ground, we believe that the court was in error when it held that the present action was barred by a prior judgment under the principle of *res judicata*. Under Section 29 of Act No. 3110, the only effect of the failure of an interested party to have the record of a pending case reconstituted is that he shall be understood to have waived the benefits of the order or judgment which may have been rendered in the case, but that will not preclude him from filing the action anew covering the same subject matter. In the instant case, plaintiffs, it is true, failed to reconstitute the record of the case then pending before the Court of Appeals, but that will not bar them from filing the case anew. This is what they have done. The judgment rendered in the previous case shall only be deemed waived, but cannot be set up as a bar to the present action (*Claridad vs. Novella*, G. R. No. L-4207, October 24, 1952).

With regard to the second ground, the lower court is also in error in entertaining the defense of prescription. It appears that the original case was filed on October 19, 1942 and decision was rendered therein in favor of plaintiffs on May 25, 1943 (Civil Case No. 12). While under Section 29 of Act No. 3110, a party who fails to reconstitute a court record within the period prescribed by law loses the "benefits of Section 31 hereof", which refers to the interruption of the time that may transpire from the initiation of the destroyed record until the date when its reconstitution shall have been declared impossible, however, in the instant case, this failure cannot have an adverse effect it appearing that plaintiffs filed another action for the same purpose against the same defendants on August 19, 1943 (Civil Case No. 60), which remained pending until October 19, 1954, when the same was dismissed without prejudice for alleged lack of interest on the part of plaintiffs. And since plaintiffs filed this case anew on November 28, 1955, wherein the history of the previous cases was briefly related, following Article 1793 of the Spanish Civil Code which provides that "the prescription of actions is interrupted by the commencement of a suit for their enforcement," it follows that the period of 10 years for the annulment of the sale of the property in question to appellee Justo Evangelista, as well as its subsequent sale by the latter to his co-appelle Leon P. Esquerra, has not yet expired upon the theory that the intervening period from the filing of the first case on October 19, 1942 to the institution of the present case in November 28, 1955, is deemed to have been civilly interrupted. It is therefore clear that the right of action of plaintiffs has not yet prescribed as erroneously held by the trial court.

Wherefore, the order appealed from is set aside. Let this case be remanded to the trial court for further proceedings. No costs.

Paras, C. J., Bengzon, Padilla, Montemayor, Reyes, A. Labrador, Concepcion, and Endencia, 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.