

PABLO SOTTO, PLAINTIFF AND APPELLANT, VS. ABELARDO VALENZUELA, DEFENDANT AND APPELLEE.

G.R. No. 12732. April 29, 1959

Ponente: LABRADOR, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-12732/>

LABRADOR, J.:

Appeal from an order of dismissal issued by the Court of First Instance of Rizal, Hon. Nicasio Yatco presiding, and a subsequent order denying the motion for its (the first order) reconsideration.

Complaint in this case was filed on May 16, 1956 and the answer on June 1, 1956. On June 11, 1956, plaintiff moved the court to set the case for hearing and on the following day, June 12, 1956, the case was set for hearing on July 5, 1956. On June 25, defendant filed a motion for leave to file a third-party complaint, which third-party complaint accompanied the motion. No objection was registered against this petition, and the court on June 30, 1956 granted the petition and admitted the third-party complaint.

When on July 5, 1956, the case was called for hearing as previously ordered by the court, none of the parties appeared; whereupon, the court dismissed it, without costs.

The following day plaintiff filed a motion for the reconsideration of the order on the ground that his failure to appear was caused by his belief that inasmuch as the third-party complaint had been admitted on June 30, and the summons to the third-party defendant had not yet been issued, the hearing could not be held. The court denied this motion; hence, this appeal.

Even if the summons to the third-party defendant has actually been issued, it does not appear that he has already filed his answer as he has fifteen days to do so from the time of the receipts of summons.

It is apparent that in view of the admission of the third-party complaint on June 30, 1956 and the fact that the defendant thereto must be summoned and be allowed to answer, the case was not yet ready for trial at the time previously set for hearing, i. e., July 5, 1956. If the court was not aware of the existence of the third-party complaint on July 5, 1956, its attention was called to it by the motion for reconsideration.

The order of dismissal was therefore ill-advised and it is hereby set aside, and the case returned to the court a quo for further proceedings. Without costs.

Paras, C.J., Bengzon, Padilla, Montemayor, Reyes, A., Bautista Angelo, and Concepcion, 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.