

**BIENVENIDA JOCSO, IN HER OWN BEHALF AND AS JUDICIAL
GUARDIAN OF THE MINORS ROMEO INTENGAN, ET AL., PLAINTIFFS
AND APPELLANTS, VS. MANUEL P. SILOS, DEFENDANT AND
APPELLEE.**

G.R. No. 12998. July 25, 1960

Ponente: PADILLA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-12998/>

PADILLA, J.:

On 26 April 1957, an action was brought in the Court of First Instance of Occidental Negros by the plaintiffs to annul the sale made by Agustin Jocson to the defendant of one-half of lot No. 555-B, Himamaylan Cadastre. The plaintiffs allege that they are the legitimate children and heirs of the late Agueda Torres who since 1915 lived with Agustin Jocson as husband and wife without benefit of clergy; that by the thrift of Agueda both were able to acquire in 1931 the parcel of land, recovery of title to half of which is sought by them (the plaintiffs); that Agustin Jocson and Agueda Torres were joined in lawful wedlock in 1934; that soon thereafter in the same year Agueda Torres died; that in 1935 Agustin Jocson sold the parcel of land to the defendant who had knowledge of the fact that the late Agueda Torres had left children and descendants. Their prayer is for a declaration that lot No. 555-B, Himamaylan Cadastre, is conjugal and that the sale of one-half thereof by Agustin Jocson to the defendant is null and void; for an order to the Registrar of Deeds in and for the province of Occidental Negros to cancel transfer Certificate of Title No. 2503 in the name of the defendant and to issue in lieu thereof another in the name of the defendant as owner of an undivided half and of the plaintiffs as owners of the other undivided half; for delivery of possession and products of the undivided half of the lot to them (the plaintiffs); for payment of costs and for other just and equitable relief.

On 25 May 1957 a motion for the dismissal of the complaint was filed on lack of cause of action and the fact that the action is barred by the statute of limitations.

On 11 June 1957 attorney Pitt E. Vasquez entered his appearance as counsel for the plaintiff, but attorney Jose M. Presquito who had filed the complaint did not withdraw his appearance and continued as attorney of record for the plaintiffs.

On 21 June 1957 the Court dismissed the complaint on the ground that the action is barred by the statute of limitations.

A motion for reconsideration of the order of dismissal filed on 26 June 1957 was denied on 1 July 1957. A second motion for reconsideration and new trial filed on 15 July 1957 with leave of court was denied on 20 July 1957. A third motion for reconsideration filed on 25 July 1957 was likewise denied on 3 August 1957.

A petition for relief filed on 14 August 1957 was also denied on 17 August 1957, from which the plaintiffs have appealed.

In their petition for relief the appellants relied upon an affidavit of Julian Excija, their attorney-in-fact, attached

to the petition, to show excusable mistake and negligence which prevented them from appealing the order of dismissal. The excusable mistake and negligence are made to consist of the failure of attorney Jose M. Presquito, upon whom the appellee's counsel served a copy of the motion to dismiss, to file an objection to the motion to dismiss and to appear at the hearing thereof, because his professional services had been terminated before the filing of the motion to dismiss; of the failure of attorney Pitt E. Vasquez, whose professional services had been engaged, to file an objection to the motion to dismiss and to appear at the hearing thereof, because as already stated a copy of the motion to dismiss had been served upon attorney Jose M. Presquito and not upon him; of the failure of the appellants' attorney-in-fact in his several attempts to communicate by long distance telephone with attorney Pitt E. Vasquez whose law office was in Manila; and of the failure of said attorney-in-fact to receive communication from attorney Pitt E. Vasquez. Because of these failures the appellants' attorney-in-fact engaged the services of the Parreño Law Office to protect the interest of the appellants, his principals. Attorney Parreño, according to the affiant, found in the record of the case a second motion for reconsideration filed by attorney Pitt E. Vasquez on 15 July 1957 which was denied; so the former filed on 25 July 1957 a third motion for reconsideration setting it for hearing on 29 July 1957, but the hearing thereof was postponed on motion of the appellee's counsel. This third motion for reconsideration was likewise denied on 3 August 1957. According to the affiant had the Court denied the third motion for reconsideration on 29 July 1957, an appeal could have been perfected because the 30-day period within which an appeal could be taken had not ended. Such is the sworn statement of the appellants' attorney-in-fact upon which they rely to show excusable mistake and negligence which would entitle them to a relief from the order of dismissal.

The failure to file an objection to the motion to dismiss and to appear at the hearing thereof is not the reason for the dismissal of the appellant's complaint. All the grounds for objecting to the motion for dismissal that could have been set up were set-up and advanced in the three motions for reconsideration which were all denied. The reason for the dismissal of the complaint is the statute of limitations that bars the action, the period of 22 years having elapsed from the time of sale in 1935 to the filing of the complaint in 1957.

Appellants' contention that, as title to lands brought under the operation of the Torrens System or the Land Registration Act is not subject to prescription, their action to annul the sale of half of the lot made by their father in 1935 is imprescriptible. This would be correct if the title to the registered parcel of land in question were in the name of Agustin Jocson and Agueda Torres. From the fact that the transfer certificate of title issued to Agustin Jocson for the parcel of land involved in this case had been cancelled and in lieu thereof a new one was issued in the name of the appellee, the purchaser, it may be inferred that the transfer certificate of title for the parcel of land was in the name of the vendor Agustin Jocson alone.

The order appealed from denying the petition for relief under Rule 38 being in accordance with law is affirmed, with costs against the appellants.

Paras, C. J., Montemayor, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., Endencia, Barrera, and Gutierrez David, JJ., concur.

Bengzon, J., took no part.

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.