

**ALBERTO INESIN, EULOGIO TORNETO AND FELIX WAGA,
PETITIONERS, VS. THE HONORABLE MATEO CANONoy, IN HIS
CAPACITY AS DISTRICT JUDGE OF THE COURT OF FIRST INSTANCE
OF ZAMBOANGA DEL S...**

G.R. No. 13231. February 29, 1960

Ponente: LABRADOR, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-13231/>

LABRADOR, J.:

This is an original action for certiorari and prohibition filed with us to reverse an order of the Court of First Instance of Zamboanga del Sur, Hon. Mateo Canonoy, presiding, setting aside a previous order of the court dated December 29, 1956, dismissing an action instituted by herein respondent Vicenta Benodin against the herein petitioners, Alberto Inesin, Eulogio Torneto and Felix Waga, which is civil case No. 194 of the Court of First Instance of Zamboanga del Sur, Pagadian.

In said civil case No. 194 herein respondent Benodin brought action against petitioners Inesin, Torneto and Waga to recover from them damages for serious physical injuries suffered by plaintiff for having been thrown out of a tartanilla in which she was riding, which was struck from behind by a bus owned and operated by Alberto Inesin and Eulogio Torneto, and driven recklessly by Felix Waga. Upon receiving the summons counsel for defendants moved to dismiss the complaint by reason of the fact that a final judgment had already been previously rendered between the same parties for the same cause of action and that Waga has not been shown to have any relation with his other co-defendants. The motion was set for hearing on September 27, 1955. The court granted the motion and dismissed the action on the ground that the driver of the bus had been prosecuted in the justice of the peace court of Pagadian for negligence, and found guilty, and in said case plaintiff Vicenta Benodin had not reserved the right to institute an independent civil action.

The record shows that counsel for defendants received copy of the order of dismissal on October 7, 1955 and on October 31, they presented a motion for the reconsideration of the order of dismissal. The motion for reconsideration does not give notice of the day set for the hearing thereof, but on December 6, 1956, such notice was presented asking the clerk of court to set the motion for reconsideration for hearing on December 22, 1956. The motion was opposed because it contained no notice of hearing and it therefore, should be considered as a mere scrap of paper which did not affect the running of the period for the judgment to become final. On December 29, 1956, the court below granted the motion for reconsideration and set aside the order of dismissal. Thereupon attorney for defendants presented a motion to reconsider the order which is set forth above but the court denied this motion for reconsideration on January 15, 1957.

In the case at bar it is the claim of the petitioners before us that as the motion for reconsideration, submitted by the defendant in the court below to set aside the judgment, was not accompanied, by a notice of the date set for the hearing of the motion, said motion should be considered as a mere scrap of paper and did not produce the effect of suspending the period of appeal. So, it is claimed that the judge below, in setting aside the order of dismissal,

acted in excess of his jurisdiction.

It is to be noted that the Court of First Instance holds its sessions in Pagadian, Zamboanga del Sur, only once a year on the dates to be fixed by the district judge (Sec. 161, Rev. Adm. Code, superseded by Sec. 54 of Republic Act No. 296). As the sessions in Pagadian are not continuous throughout the year, and since it is not shown that, at the time respondents herein presented the motion to reconsider the order of dismissal, the judge of the Court of First Instance had already set a date for the next term, attorney for the movant, respondent herein, could not set the motion for hearing, not knowing on what date or in what month the next yearly session in Pagadian was to take place. It is true that the attorney for the respondent could have set the motion for hearing on the first day of the term, asking the clerk of court to set it for hearing on that date, but the failure to adopt such a step could not have meant negligence or neglect on the part of attorney for the movants, for said attorney had the alternative to set the motion for hearing as soon as the judge has fixed the following term of the court in that municipality. Under the rules, which we have enjoined to be interpreted liberally and under the circumstances, we are not prepared to declare that the motion, which was accepted by the clerk of court without the designation of the date for its hearing, was a mere scrap of paper. Judging from the order of the respondent court, the next sessions after the sessions in September, 1955, must have taken place in October, 1956, when the motion for reconsideration in question was set for hearing by counsel for the movant-respondent. Perhaps it was only in December, 1956, that the plaintiffs had been apprised that the court was going to hold its term of court during the month of December, 1956 and it was on the sixth day of that month that said attorney for the plaintiff, respondent herein, promptly notified the clerk and the adverse party of the date of said hearing. The judge, who should know this special provision of the Judiciary Act on the holding of sessions in Pagadian, denied the motion to strike out the motion for reconsideration for failure to contain a notice of the date of hearing, and he must have taken into account the fact that there is only one term of the court in Pagadian.

Wherefore, the petition should be, as it is hereby denied, without costs.

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