

HORACIO GUANZON, PETITIONER, VS. FRANCISCO ARAGON, HON. GUILLERMO ROMEO, AND THE PROVINCIAL SHERIFF OF RIZAL, RESPONDENTS.

G.R. No. 14436. March 21, 1960

Ponente: BAUTISTA ANGELO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-14436/>

BAUTISTA ANGELO, J.:

On September 21, 1957, Francisco Aragon brought an action against Horacio Guanzon before the Justice of the Peace Court of Paranaque, Rizal praying that the latter be ejected from the land mentioned in the complaint. In due time, Guanzon filed his answer to the complaint. Meantime, one Pablo Lozada moved to intervene claiming to be entitled to the ownership and possession of the property and when the motion was denied, Lozada instituted an action for mandamus before the Court of First Instance of Rizal. This action was dismissed, the court sustaining the order of the justice of the peace court denying the intervention.

Despite the mandamus case, the ejectment case was continued wherein Aragon completed the presentation of his evidence. Then the trial was suspended on Guanzon's petition, its continuation having been set for March 4, 1958 for the reception of Guanzon's evidence. Of this hearing Guanzon's counsel, Atty. Cesar Leuterio, was duly notified, but despite said notification neither Guanzon nor his counsel appeared as a consequence of which the justice of the Peace Court of Parañaque considered the case submitted for decision. Accordingly, on April 30, 1958, the court rendered decision ordering Guanzon to vacate the land in question and to restore its possession to Aragon, declaring Guanzon to be a builder in bad faith, and ordering furthermore Guanzon to pay the sum of P100.00 a month as rental, plus the sum of P200.00 as attorney's fees, with costs.

On June 11, 1958, Guanzon's counsel received a copy of the decision, and when the same became final and executory, Aragon asked for a writ of execution. Acceding to the request, the justice of the peace court issued the writ, and the provincial sheriff set a date for the sale at public auction of the building standing on the land.

On August 6, 1958, a few days before the scheduled sale, Guanzon filed with the Court of First Instance of Rizal a petition for relief from the judgment of the justice of the peace court with a prayer for preliminary injunction. This petition was given due course, the court requiring Aragon to file his answer, but upon a motion for reconsideration wherein Aragon moved for the dismissal of the petition, the lower court, after proper hearing, resolved to deny the petition for relief on the ground that the reasons alleged therein do not constitute excusable negligence as to warrant the reopening of the case before the Justice of the Peace Court of Parañaque. Hence the present appeal.

In the petition for relief filed by appellant for the reopening of the case before the Justice of the Peace Court of Parañaque, he set forth the following reasons as justification: that he did not appear in the continuation of the hearing of the case set for March 4, 1958 because he was not notified thereof either by the court or by his counsel due to the circumstances stated in the latter's affidavit; that he could not appeal from the decision rendered by the justice of the peace court because he came to know thereof only on July 30, 1958 when he received a notice from the provincial sheriff that his property will be sold at public auction on August 14, 1958 to satisfy the judgment ;

that because of the above circumstances he was not able to present his evidence and so he was deprived of his day in court; that his petition was filed within 60 days after he learned of the decision and within 6 months after the same was entered; and that he has a good and substantial defense, to wit: that he constructed a semi-complete building on the lots in question on the strength of a contract of partnership he entered into with one Pablo Lozada who contributed thereto the lots aforesaid as his capital and who claimed to be entitled thereto by virtue of an agreement to sell executed in his favor by the Director of Lands, appellant believing in good faith that Lozada was the owner thereof, and that the question of ownership of the land was still the subject of litigation between Aragon and Lozada in the Office of the President of the Philippines.

On the other hand, the failure of appellant's counsel to notify him of the date of the continuation of the hearing as well as to furnish him with a copy of the decision appears explained by counsel in an affidavit attached to the petition for relief, which explanation appellant claims to be his justification for the reopening of the case. The affidavit contains the following averments: that after the initial hearing of this case before the justice of the Peace Court of Parañaque, appellant took all the papers of the case from the affiant and turned them over to Atty. Eliseo Tenza so that the latter may prepare the necessary pleadings for the mandamus case appellant wants filed before the Court of First Instance of Rizal; that because of the employment of Atty. Tenza as additional counsel and the fact that the papers of the case were taken by appellant, affiant had the impression that appellant has already terminated his services; that when on March 3, 1958 he received a notice from the court that the continuation of the hearing would take place on March 4, 1958, he went to the clerk of court to inquire whether Atty. Tenza was also notified of the hearing and when he received an affirmative answer, he felt that his appearance at the hearing was no longer necessary; that on June 11, 1958, he received a copy of the decision of the justice of the peace court and when he failed to contact appellant, he merely notified one Ponciano Sevilla, a responsible employee of appellant, whom he instructed to relay to appellant the information that the court had rendered an adverse decision against him, and Sevilla assured him that he will transmit the message to appellant.

Ponciano Sevilla, in turn, stated the following in his affidavit of merit: that on June 13, 1958, he received a telephone call from Atty. Cesar Leuterio instructing him to transmit a message to appellant to the effect that the Justice of the Peace Court of Parañaque rendered an adverse decision against him; that he wrote the instruction on a piece of paper and placed it on his counter, but unfortunately the same was lost; and that because when he received the telephone call he had many customers and was busy attending to them, he was not able to relay the message to appellant until July 30, 1958 when appellant made an inquiry regarding said telephone call.

In considering the foregoing circumstances as not sufficient to constitute excusable negligence within the spirit of Rule 38, the trial court made the following observation:

"The petitioner mainly relies on the ground of excusable negligence for his petition for relief from the judgment. The petition states that petitioner Guanzon did not appear in the continuation of the trial of Civil Case No. 46 on March 4, 1958 because he did not know of said hearing as he was not notified of it either by the Clerk of the Justice of the Peace Court of Parañaque or by his counsel Atty. Cesar Leuterio. The failure of petitioner Guanzon to appear in the hearing of Civil Case No. 464 held on March 4, 1958 because he was not notified of said hearing by the Clerk of the Justice of the Peace did not constitute excusable negligence because there is no duty on the part of the court to notify him of the hearing as he was represented by his counsel of record, Atty. Cesar Leuterio, to whom notice of hearing, was sent.

There was neither excusable negligence when Guanzon failed to attend the hearing in the Justice of the Peace Court because his lawyer Atty. Cesar Leuterio did not notify him of said hearing. Notification of hearing to Atty. Leuterio was sufficient (Sec. 2, Rule 27, Rules of Court). If the presence of Guanzon was essential in the trial of March 4, 1958, then his counsel, Atty. Leuterio, would certainly have knowledge of this circumstance and he should have notified his client of said hearing. Atty. Leuterio attempted to explain that he did not

notify Guanzon of the date of hearing nor did he appear at said hearing because he was of the honest belief that his services' as the lawyer of Guanzon had already been terminated by the latter. But a lawyer of ordinary prudence knows that the relief of the counsel of record in a case could only be effected in the modes outlined in Section 24 of Rule 127 of the Rules of Court, and Atty. Leuterio had not been, retired as counsel for Guanzon in any of the modes so specified in said Section 24. His assumption that he was already relieved as counsel for Guanzon had therefore no legal basis so that his failure to appear at the hearing was an omission which an ordinary prudent lawyer under the circumstances would not have committed and hence his said failure constituted gross negligence." (Record on Appeal, pp. 75-77)

There is nothing in the foregoing observation from which we can infer that the trial court acted erroneously or with abuse of discretion. On the contrary, we find it to be in accordance with law and to be supported by the circumstances surrounding the failure to appear of appellant as well as of his counsel in the continuation, of the hearing of the case. Indeed, the claim of appellant's counsel that he failed to notify his client of the hearing because when appellant took from him the papers of the case to institute the mandamus case in the Court of First Instance of Rizal he got the impression that appellant has already terminated their relation as attorney and client is untenable, for it runs counter to the mode prescribed in Section 24 of Rule 127 which provides that an attorney may only retire from a case either by the written consent of his client or by permission of the court, after due notice and hearing, in which event the attorney should see to it that, the name of the new attorney be recorded in the case. Verily, failure to observe such procedure cannot be considered as excusable negligence on the part of counsel, much less a basis for relief within the meaning of Rule 38.

The claim of counsel that his failure to notify his client is due to the information given him by the clerk of court that Atty. Eliseo Tenza was also notified of the continuation of the hearing cannot also be entertained for, aside from the reasons stated above, it appears that Atty. Tenza was the attorney of record of intervenor Pablo Lozada. He was only employed by appellant when the latter decided to institute mandamus proceedings to secure the admission of Lozada's petition for intervention on the ejectment case.

It is true that one of the factors that may be considered in determining the sufficiency of the circumstances that may justify the grant of a petition for relief is that the petitioner has a good and valid defense which, if considered, may have the effect of reversing or altering the nature of the decision. This upon the theory that a petition for relief is addressed to the sound discretion of the court. But here the alleged good and substantial defense set up by appellant is that he entered into a partnership contract with one Pablo Lozada who claims to be the owner of the land on which he erected a semi-complete building and that the ownership of said lot was still pending determination in the Office of the President when appellant filed his petition for relief, which claim is not correct, for the record shows that when said petition was filed the administrative case between Lozada and appellee has already been finally passed upon by said office. Thus, from the record it appears that on April 5, 1957 the Office of the President decided the case adversely to Lozada by virtue of the appeal taken by Aragon from the decision of the Secretary of Agriculture and Natural Resources, while the motion for reconsideration filed by Lozada was denied by said office on April 11, 1958 (Annex A). On the other hand, the record shows that the petition for relief from judgment was filed by appellant on August 6, 1958 and the same was denied on August 20, 1958.

We find, therefore, no plausible reason for disturbing the action taken by the trial court considering that the alleged special defense, even if considered, could not have the effect of altering the nature of the decision of said justice of the peace.

"But it should be noted that the granting or denial of a motion for new trial is, as a general rule, discretionary with the courts, whose judgment should not be disturbed unless there is clear showing of abuse of discretion. In the instant case, we find that the lower court did not abuse its discretion. While it is true that the failure of the defendants to appear is due to inadvertence or mistake on the part of an employee which ordinary prudence

could not have guarded against, we should not lose sight of the fact that the lower court deemed it wise to deny the motion because it considered futile and unsubstantial the defenses set up by the defendants which, even if proven, could not have the effect of altering the nature of the decision. In this respect we agree with the trial court." (Miranda vs. Legaspi, et al., 92 Phil., 290; 48 Off. Gaz., No. 11, p. 4822.)

Wherefore, the order appealed from is affirmed, with costs against appellant.

Paras, C. J., Bengzon, Montemayor, Labrador, Concepcion, Endencia, and Gutierrez David, JJ., concur.

Reyes, J. B. L., J., concurs in the result.

Barrera, 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.