

RAFAEL ENRIQUEZ, AS ADMINISTRATOR OF THE ESTATE OF THE LATE JOAQUIN MA. HERRER, PLAINTIFF AND APPELLANT, VS. SUN LIFE ASSURANCE COMPANY OF CANADA, DEFENDANT AND APPELLEE.

G. R. No. 15895. November 29, 1920

Ponente: MALCOLM, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-15895/>

MALCOLM, J.:

This is an action brought by the plaintiff as administrator of the estate of the late Joaquin Ma. Herrer to recover from the defendant life insurance company the sum of P6,000 paid by the deceased for a life annuity. The trial court gave judgment for the defendant. Plaintiff appeals.

The undisputed facts are these: On September 24, 1917, Joaquin Herrer made application to the Sun Life Assurance Company of Canada through its office in Manila for a life annuity. Two days later he paid the sum of P6,000 to the manager of the company's Manila office and was given a receipt reading as follows:

"Manila, I. F., 26 de septiembre, 1917.

"PROVISIONAL RECEIPT

"P6,000

"Recibi la suma de seis mil pesos de Don Joaquin "Herrer de Manila como prima de la Renta Vitalicia solicitada por dicho Don Joaquin Herrer hoy, sujeta al examen medico y aprobacion de la Oficina Central de la Compañia."

The application was immediately forwarded to the head office of the company at Montreal, Canada. On November 26, 1917, the head office gave notice of acceptance by cable to Manila. (Whether on the same day the cable was received notice was sent by the Manila office to Herrer that the application had been accepted, is a disputed point, which will be discussed later.) On December 4, 1917, the policy was issued at Montreal. On December 18, 1917, attorney Aurelio A. Torres wrote to the Manila office of the company stating that Herrer desired to withdraw his application. The following day the local office replied to Mr. Torres, stating that the policy had been issued, and called attention to the notification of November 26, 1917. This letter was received by Mr. Torres on the morning of December 21, 1917. Mr. Herrer died on December 20, 1917.

As above suggested, the issue of fact raised by the evidence is whether Herrer received notice of acceptance of his application. To resolve this question, we propose to go directly to the evidence of record.

The chief clerk of the Manila office of the Sun Life Assurance Company of Canada at the time of the trial testified that he prepared the letter introduced in evidence as Exhibit 3, of date November 26, 1917, and handed it to the local manager, Mr. E. E. White, for signature. The witness admitted on cross-examination that after preparing the letter and giving it to the manager, he knew nothing of what became of it. The local manager, Mr. White, testified to having received the cablegram accepting the application of Mr. Herrer from the home office on November 26,

1917. He said that on the same day he signed a letter notifying Mr. Herrer of this acceptance. The witness further said that letters, after being signed, were sent to the chief clerk and placed on the mailing desk for transmission. The witness could not tell if the letter had ever actually been placed in the mails. Mr. Tuason, who was the chief clerk, on November 26, 1917, was not called as a witness. For the defense, attorney Manuel Torres testified to having prepared the will of Joaquin Ma. Herrer, that on this occasion, Mr. Herrer mentioned his application for a life annuity, and that he said that the only document relating to the transaction in his possession was the provisional receipt. Rafael Enriquez, the administrator of the estate, testified that he had gone through the effects of the deceased and had found no letter of notification from the insurance company to Mr. Herrer.

Our deduction from the evidence on this issue must be that the letter of November 26, 1917, notifying Mr. Herrer that his application had been accepted, was prepared and signed in the local office of the insurance company, was placed in the ordinary channels for transmission, but as far as we know, was never actually mailed and thus was never received by the applicant. Not forgetting our conclusion of fact, it next becomes necessary to determine the law which should be applied to the facts. In order to reach our legal goal, the obvious signposts along the way must be noticed. Until quite recently, all of the provisions concerning life insurance in the Philippines were found in the Code of Commerce and the Civil Code. In the Code of Commerce, there formerly existed Title VIII of Book II and Section III of Title III of Book III, which dealt with insurance contracts. In the Civil Code there formerly existed and presumably still exist, Chapters II and IV, entitled insurance contracts and life annuities, respectively, of Title XII of Book IV. On and after July 1, 1915, there was, however, in force the Insurance Act, No. 2427. Chapter IV of this Act concerns life and health insurance. The Act expressly repealed Title VIII of Book II and Section III of Title III of Book III of the Code of Commerce. The law of insurance is consequently now found in the Insurance Act and the Civil Code.

While, as just noticed, the Insurance Act deals with life insurance, it is silent as to the methods to be followed in order that there may be a contract of insurance. On the other hand, the Civil Code, in article 1802, not only describes a contract of life annuity markedly similar to the one we are considering, but in two other articles, gives strong clues as to the proper disposition of the case. For instance, article 16 of the Civil Code provides that matters which are governed by special laws, any deficiency of the latter shall be supplied by the provisions of this Code." On the supposition, therefore, which is incontestable, that the special law on the subject of insurance is deficient in enunciating the principles governing acceptance, the subject-matter of the Civil Code, if there be any, would be controlling. In the Civil Code is found article 1262 providing that "Consent is shown by the concurrence of offer and acceptance with respect to the thing and the consideration which are to constitute the contract. An acceptance made by letter shall not bind the person making the offer except from the time it came to his knowledge. The contract, in such case, is presumed to have been entered into at the place where the offer was made." This latter article is in opposition to the provisions of article 54 of the Code of Commerce.

If no mistake has been made in announcing the successive steps by which we reach a conclusion, then the only duty remaining is for the court to apply the law as it is found. The legislature in its wisdom having enacted a new law on insurance, and expressly repealed the provisions in the Code of Commerce on the same subject, and having thus left a void in the commercial law, it would seem logical to make use of the only pertinent provision of law found in the Civil Code, closely related to the chapter concerning life annuities.

The Civil Code rule, that an acceptance made by letter shall bind the person making the offer only from the date it came to his knowledge, may not be the best expression of modern commercial usage. Still it must be admitted that its enforcement avoids uncertainty and tends to security. Not only this, but in order that the principle may not be taken too lightly, let it be noticed that it is identical with the principles announced by a considerable number of respectable courts in the United States. The courts who take this view have expressly held that an acceptance of an

offer of insurance not actually or constructively communicated to the proposer does not make a contract. Only the mailing of acceptance, it has been said, completes the contract of insurance, as the locus poenitentiae is ended when the acceptance has passed beyond the control of the party. (I Joyce, *The Law of Insurance*, pp. 235, 244.)

In resume, therefore, the law applicable to the case is found to be the second paragraph of article 1262 of the Civil Code providing that an acceptance made by letter shall not bind the person making the offer except from the time it came to his knowledge. The pertinent fact is, that according to the provisional receipt, three things had to be accomplished by the insurance company before there was a contract: (1) There had to be a medical examination of the applicant; (2) there had to be approval of the application by the head office of the company; and (3) this approval had in some way to be communicated by the company to the applicant. The further admitted facts are that the head office in Montreal did accept the application, did cable the Manila office to that effect, did actually issue the policy and did, through its agent in Manila, actually write the letter of notification and place it in the usual channels for transmission to the addressee. The fact as to the letter of notification thus fails to concur with the essential elements of the general rule pertaining to the mailing and delivery of mail matter as announced by the American courts, namely, when a letter or other mail matter is addressed and mailed with postage prepaid there is a rebuttable presumption of fact that it was received by the addressee as soon as it could have been transmitted to him in the ordinary course of the mails. But if any one of these elemental facts fails to appear, it is fatal to the presumption. For instance, a letter will not be presumed to have been received by the addressee unless it is shown that it was deposited in the post-office, properly addressed and stamped. (See 22 C. J., 96, and 49 L. R. A. [N. S.], pp. 458, et seq., notes.)

We hold that the contract for a life annuity in the case at bar was not perfected because it has not been proved satisfactorily that the acceptance of the application ever came to the knowledge of the applicant.

Judgment is reversed, and the plaintiff shall have and recover from the defendant the sum of P6,000 with legal interest from November 20, 1918, until paid, without special finding as to costs in either instance. So ordered.

Mapa, C. J. Araullo, Avanceña and Villamor, JJ., concur.

Johnson, J., dissents.

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.