

ASSOCIATED INSURANCE SURETY CO., INC., PLAINTIFF AND APPELLEE, VS. VIVENCIO RIEL AND JOVITO R. SALONGA, DEFENDANTS. JOVITO R. SALONGA, DEFENDANT AND APPELLANT. JOVITO R. SALONGA...

G.R. No. 17048. September 19, 1961

Ponente: LABRADOR, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-17048/>

LABRADOR, J.:

Appeal to the Court of Appeals from a decision of the Court of First Instance of Manila, Hon. Froilan Bayona, presiding, in Civil Case No. 27912 of that court, entitled "Associated Insurance & Surety Co., Inc., plaintiff, vs. Vivencio Riel & Jovito R. Salonga, defendants. Jovito R. Salonga, third-party plaintiff, versus Teodoro Rivera, third-party defendant." The dispositive part of said decision is as follows:

"WHEREFORE, judgment is hereby rendered condemning the herein defendants to jointly and severally pay the plaintiff the sum of P2,000 as principal amount due the plaintiff with interest at the rate of 12% per annum compounded quarterly from date of the filing of the complaint until full payment of the said amount, to pay the plaintiff the amount equivalent to 15% of the whole amount due by way of attorney's fees as previously agreed upon between the parties and to pay jointly and severally the costs of this suit.

The Court of Appeals elevated the appeal to this Court because it involves questions purely of law.

The facts necessary for the determination of this appeal are as follows: For the issuance of AISCO (Associated Insurance & Surety Co., Inc.) Bond No. J-3638 (Exhibit "A") to stay execution of judgment rendered against Riel in Civil Case No. 19664 of the Court of First Instance of Manila, entitled "Vivencio Riel vs. Arsenio Lacson, et al., said Riel and Salonga executed on September 8, 1953 in favor of the Associated Insurance & Surety Co., Inc., Indemnity Agreement No. J-3638 (Exhibit "B"), whereby they bound themselves jointly and severally to indemnify the Company for any damage, payments, advances, etc. that the latter may make in pursuance of the execution of the above bond, including attorney's fees which shall not be less than 15% of the amount of the claim, plus interest at 12% per annum. Judgment having been entered and a writ of execution (Exhibit "C-2") issued upon AISCO Bond No. J-3638, the company paid P2,000.00 the amount of the bond.

On October 19, 1955, the company filed a complaint against Riel and Salonga to enforce liability under AISCO Indemnity Agreement No. J-3638. During the pendency of the action, and more specifically during the period from October 19, 1955 to June 30, 1958, payments were made to the company on account of said Indemnity Agreement, so that as of January 30, 1958, the outstanding obligation of Riel on said account was P2,073.60 (Exhibit "G").

On January 11, 1958, Salonga and Teodoro Rivera entered into an agreement whereby the latter bound himself to indemnify the former "for any amount of damages, payments, prejudice, costs and expenses of whatever kind and nature, including attorney's fees, which the Court of First Instance of Manila in Civil Case No. 27912, entitled "Associated Insurance & Surety Co., Inc., vs. Vivencio Riel, et al.," may adjudge in favor of the plaintiff therein

and against Jovito R. Salonga, one of the defendants in this case * * *." (Exhibit "1)."

After a reply to the answer was filed, and more specifically on January 29, 1958, Salonga filed a motion for leave to file a third-party complaint against Rivera, attaching thereto his third-party complaint. Said third-party complaint was admitted by the lower court in its order dated January 30, 1958. The third-party defendant Rivera failed to file his answer within the reglementary period, and so he was declared in default on March 7, 1958.

After hearing the lower court rendered the judgment above set forth.

On March 25, 1959, a motion for reconsideration was filed by the defendants for reduction of amount of judgment and for a finding on the third-party complaint and plaintiff company manifested that it had no objection to said motion provided the amount to be paid is P2,073.60, plus interest at 12% per annum from January 31, 1958 until the amount is paid in full, and 15% of the interest due as additional attorney's fees. The lower court denied the motion for reconsideration. Another motion for reconsideration was filed by the defendants on April 22, 1959, and another manifestation similar to that filed on March 30, 1959 was submitted by the plaintiff company. Again on May 2, 1959, the lower court denied the motion for reconsideration. Hence this appeal.

In their appeal, defendants claim error of the trial court in condemning them to pay the principal sum of P2,000 under the Indemnity Agreement, with interest thereon at 12% per annum from October 19, 1955, the date of the filing of the action, until the amount is fully paid, plus attorney's fees equivalent to 15% of the total amount due. Error is also attributed to the trial court for its failure to make findings on the third-party complaint.

We agree with the defendants-appellants, that the lower court erroneously awarded to the plaintiff-appellee the principal sum of P2,000, with interest thereon from October 19, 1955 until the principal amount is fully paid. Exhibit "G" clearly shows that appellant Kiel had been paying interests on account of the Indemnity Agreement since October 19, 1955 up to January 30, 1958, so that the total outstanding obligation of the appellants as of the latter date was only P2,073.60. The interest on the principal sum of P2,073.60 should, therefore, commence from January 31, 1958 and end when the said amount is fully satisfied.

We also agree with the appellants that the attorney's fees should be reduced in accordance with the manifestations of the appellee company, that is, 15% of the interests due. The two manifestations of the appellee company are admissions against interest, and the same should have been considered by the trial court in modifying its decision with respect to attorney's fees. Moreover, Exhibit "G" shows that the total amount of P371.48 had already been included in the principal obligation.

The other assignment is that the lower court erred in failing to make a finding on the third-party complaint. This assignment should also be sustained. According to Exhibit "1," which is the basis of the third-party complaint, the third-party defendant bound himself to indemnify the third-party plaintiff of whatever damage that the latter may incur in Civil Case No. 27912, which is the instant case. The third-party complaint had been admitted and evidence to sustain the same had been presented, so the lower court committed error in failing to make findings thereon.

Inasmuch as the agreement (Exhibit "1") between the third-party plaintiff and the third-party defendant is already a part of the records of this appeal and in order to avoid multiplicity of suits, this Court will determine the liability of the third-party defendant. We find that the third-party defendant Rivera has agreed to indemnify the third-party plaintiff Salonga of whatever damage that the latter may incur as a result of this case, and so we hold that said third-party defendant Rivera is liable to the third-party plaintiff Salonga for the amount of the judgment.

Wherefore, the decision of the lower court is modified as follows: That the defendants-appellants pay jointly and severally to the plaintiff-appellee the principal sum of P2,073.60, with interests thereon from January 31, 1958

until the principal amount is fully paid, and attorney's fees in an amount equivalent to 15% of the interests due. The third-party defendant is hereby condemned to pay to the third-party plaintiff whatever the latter may pay to the plaintiff-appellee on account of this suit. No costs.

Bengzon, C. J., Padilla, Concepcion, Reyes, J. B. L., Barrera, Paredes, Dizon, De Leon, and Natividad, 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.