

JUAN SORIANO PETITIONER, VS. HON. PERFECTO R. PALACIO, AND ENGRACIA MEDENILLA, RESPONDENTS.*G. R. No. 17469. November 28, 1964*

Ponente: REYES, J.B.L., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-17469/>**REYES, J.B.L., J.:**

Application for a writ of certiorari to annul and set aside the proceedings in Civil Case No. 4534 of the Court of First Instance of Camarines Sur for lack of jurisdiction. Because the court below threatened to proceed against petitioner, Juan Soriano, for contempt of court, we issued a writ of preliminary injunction to hold the proceeding in abeyance.

The background of the case is as follows: Engracia Medenilla had filed action on 8 April 1959 against Juan Soriano and others to recover a half interest in a land in Tapul, Baao, Camarines Sur. Because of his failure to answer the complaint within the reglementary period, the Court of First Instance declared Soriano in default on 6 June 1959. The case for the plaintiff was subsequently heard, and her evidence received, and on the 19th November following the court rendered a partial decision for the plaintiff Medenilla, and against Juan Soriano, declaring plaintiff to be a Half owner of the land in question; ordering him to vacate its northern half and deliver it to the plaintiff. Execution was issued in the following December.

Less than four months after the decision, on 14 March 1960, Juan Soriano filed a motion for reconsideration, claiming that the court never acquired jurisdiction over him because he was never served with summons; that as he could not be contacted in his residence the summons had been served on 2 May 1959 on Rufina Soriano, a girl 19 years old, and dwelling about one kilometer away from Soriano's residence; and she wrote Juan Soriano's name in the summons, promising to deliver it to the movant, but subsequently did not do so because she forgot all about it. The motion was not sworn, but was supported by affidavits of Rufina Soriano and of the serving officer, Enrique Blasco. Movant prayed that the proceedings, therefore, should be annulled and set aside, and a new trial ordered.

This motion was denied by order of 19 March 1960.

On 30 June 1960, Juan Soriano reiterated his previous motion through counsel, invoking *Ang Lam vs. Resillosa*, 86 Phil. 447. But upon opposition by counsel for plaintiff Medenilla, the court of first instance once more denied Soriano's motion by order of 21 July 1960, holding that the defect in the service of summons came under Rule 33 of the Rules of Court, and that the proper remedy was a petition to set aside the order of default. Soriano then brought the case to this Court by a petition for certiorari, which was given due course.

We find the appeal untenable. Assuming, arguendo, that the Court below originally did not acquire jurisdiction over petitioner Soriano, the latter certainly submitted to it when he filed his first motion for reconsideration and for annulment of previous proceedings on 14 March 1960. Therefore, the denial of that motion, by the order of 19 March 1960, was binding on petitioner Soriano. His counsel who was served copy of the order of denial on 25 March 1960 (see back of fol. 66, original record of case No. 4534), could have appealed from it- But as no appeal

therefrom was perfected within the 30 days immediately following the order denying reconsideration and annulment of the previous proceedings became final on 25 April 1960.

Soriano's second motion of 30 June 1960 insisting on the allegations made in the first one, and which was also denied by the court, came too late to affect the order of 19 March 1960, because the second motion was filed long after the order had become final and executory. In fact, the court below had no choice but deny it.

Wherefore, the writ of certiorari applied for is denied and our preliminary injunction, issued on 3 October 1960, is hereby dissolved. Costs against petitioner Juan Soriano.

Bengzon, C. J., Bautista Angelo, Concepcion, Barrera, Paredes, Dizon, Regala, Makalintal, Bengzon, J. P. and Zaldivar, 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.