

**DR. SIMEON S. CLARIDADES, PLAINTIFF AND APPELLANT VS.
VICENTE C. MERCADER AND PERFECTO FERNANDEZ, DEFENDANTS
AND APPELLEES, GUILLERMO REYES, INTERVENOR AND
APPELLANT, ARMANDO H....**

G.R. No. 20341. May 14, 1966

Ponente: CONCEPCION, C.J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-20341/>

CONCEPCION, C.J.:

Appeal from an order of dismissal of the Court of First Instance of Bulacan based upon the ground that venue had been improperly laid.

Petitioner, Dr. Simeon S. Claridades brought this action against Vicente C. Mercader and Perfecto Fernandez for the dissolution of partnership allegedly existing between them and an accounting of the operation of the partnership, particularly a fishpond located in Sta. Cruz, Marinduque, which was the main asset of the partnership, from September 1954, as well as to recover moral and exemplary damages, in addition to attorney's fees and costs.

In their answer the defendants admitted the existence of the partnership and alleged that its operation had been so far unproductive. By way of special defense, they alleged, also, that there is an impending auction sale of said fishpond due to delinquency in the payment of taxes, owing to lack of funds and plaintiff's failure to contribute what is due from him. Defendants, likewise, set up a counter-claim for damages, by reason of the institution of this action, and for attorney's fees and costs.

Subsequently, Guillermo Reyes was allowed to intervene for the purpose of recovering a sum of money allegedly due him for services rendered as foreman of said fishpond, plus damages. Later, one Armando Asuncion succeeded in intervening as the alleged assignee of the interest of defendant Mercader in said partnership and fishpond. Thereafter, on plaintiff's motion, the lower court appointed a receiver of the fishpond. Upon the other hand, Alfredo Zulueta and his wife Yap Leding sought permission to intervene, still later, alleging that they are the owners of said fishpond, having bought one-half of it from Benito Regencia, who, in turn, had acquired it from Asuncion, who had purchased the fishpond from defendant Mercader, and the other half having been assigned to him directly by Asuncion.

Despite plaintiff's opposition thereto, said permission was granted in an order dated February 8, 1962 which, likewise gave the Zuluetas ten (10) days within which to file such pleading as they may deem necessary for the protection of their rights. Soon thereafter, or on February, 12, 1962, the Zuluetas filed a motion to dismiss upon the ground that the complaint states no cause of action; that venue has been improperly laid; and that plaintiff's complaint is moot and academic. Acting upon the motion, March 2, 1962, the lower court granted the same upon the ground of improper venue. A reconsideration of this order having been denied, plaintiff and Intervenor Reyes have interposed the present appeal.

The only question for determination before us is whether or not this action should have been instituted, not in the Court of First Instance of Bulacan, but in that of Marinduque, where the aforementioned fishpond is located. The lower court answered this question in the affirmative, upon the ground that the subject matter of this case is the possession of said fishpond, because plaintiff prays in the complaint that the assets of the partnership, including said fishpond, be sold, that the proceeds of the sale be applied to the payment of the debts of the partnership, and that the residue be distributed equally among the partners; that, as intervenor, Asuncion claims to have an interest in said fishpond; that the same has been placed under a receivership; and that the Zuluetas claim to be the exclusive owners of the fishpond aforementioned.

The conclusion drawn from these premises is erroneous. Plaintiff's complaint merely seeks the liquidation of his partnership with defendants Fernandez and Mercader. This is obviously a personal action, which may be brought in the place of residence of either the plaintiff or the defendants. Since plaintiff is a resident of Bulacan, he had the right to bring the action in the court of first instance of that province.[1] What is more, although defendants Fernandez and Mercader reside in Marinduque, they did not object to the venue. In other words, they waived whatever rights they had, if any, to question it.[2]

The fact that plaintiff prays for the sale of the assets of the partnership, including the fishpond in question, did not change the nature or character of action, such sale being merely a necessary incident of the liquidation of the partnership, which should precede and/or is part of its process of dissolution. Neither plaintiff's complaint nor the answer filed by defendants Fernandez and Mercader questioned the title to said property or the possession thereof.

Again, the situation was not changed materially by the intervention either of Asuncion or of the Zuluetas, for, as alleged successors to the interest of Mercader in the fishpond, they, at best, stepped into his shoes. Again, the nature of an action is determined by the allegation of the complaint.[3] At any rate, since the venue was properly laid when the complaint was filed, said venue cannot, subsequently, become improper in consequence of issues later raised by any of the intervenors. The court having legally acquired authority to hear and decide the case, it cannot be divested of that authority by said intervenors. "An intervention cannot alter the nature of the action and the issue joined by the original parties thereto." [4]

Wherefore, the order appealed from should be set aside and the case remanded to the lower court for further proceedings, with costs against intervenors appellees, Armando H. Asuncion and Mr. and Mrs. Alfredo J. Zulueta. It is so ordered.

Bengzon, C. J., Bautista Angelo, Reyes, J.B.L., Barrera, Dizon, Regain, Makalintal, Bengzon, J. P., Zaldivar and Sanchez, JJ., concur.

Order set aside, case remanded for further proceedings.

[1] Rule 4, Section 2(c), Rules of Court.

[2] Rule 4, Section 4, Rules of Court; *Manila Railroad vs. Attorney General*, 20 Phil., 523, 537.

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.