

**AQUILINO CALVO, VICENTE T. FERNANDEZ AND MARTIN JAMIAS,
PETITIONERS, VS. HONORABLE FRANCISCO ZANDUETA, JUDGE OF
THE SECOND BRANCH OF THE COURT OF FIRST INSTANCE OF
PANGASINAN, A...***G. R. No. 26418. November 16, 1926*

Ponente: STREET, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-26418/>**STREET, J.:**

This is a petition for a writ of certiorari. The record shows that in the month of November, 1924, the municipality of San Quintin, Pangasinan, brought an action for, the expropriation of several parcels of land adjoining each other and apparently forming one continuous tract which was to be used for school purposes. Aquilino Calvo, one of the petitioners herein, was the power of one of the parcels for which he held certificate of title No. 25100, upon which a mortgage in favor of the petitioner Vicente T. Fernandez for the sum of P2,500, with interest at 12 per cent per annum, had been recorded by way of memorandum. The memorandum also contained a recital to the effect that Fernandez recognized an encumbrance uppn the land for P1,200 in favor of the petitioner Martin Jamias. All of the three petitioners were made parties defendant in the expropriation proceedings.

The commissioners, appointed by the Court of First Instance for the appraisal of the land to be expropriated, fixed the value of the parcel described in the aforesaid certificate of title No. 25100 in the sum of P6,943.25, and, in a decision dated November 25, 1925, the respondent judge approved t&e report of the commissioners upon that point. The municipality, being dissatisfied with the award, the provincial fiscal took the preliminary steps for an appeal to this court, but, subsequently, on June 23, 1926, filed a withdrawal of the appeal, which was approved by the respondent judge on the 20th of the following month.

In the meantime the respondent, Juana Ordoñez, holding a judgment against the petitioner Calvo, levied upon all "rights, interests, actions, and participation," which Calvo "had or might have" in the land in question, the levy being recorded on the certificate of title on December 23, 1925. On January 22, 1926, pursuant to the levy, all the rights, title, and interests, which Calvo had or might have in the land, were sold by the sheriff to the plaintiff in execution, the herein respondent Juana Ordoñez, the certificate of sale being duly entered by memorandum on the aforesaid certificate of title on January 23, 1926. On the same date, counsel for Juana Ordoñez filed a motion in the expropriation proceedings alleging that she had acquired all the rights and interests of the defendant Calvo, and asking that she be substituted for him as defendant in said expropriation proceedings. This motion was denied by the court in an order dated May 27, 1926.

On June 29, 1926, the respondent judge, in connection with the withdrawal of the appeal of the municipality of San Quintin, plaintiff in the expropriation proceedings, declared final the decision of November 25, 1925, in said proceedings and ordered the provincial treasurer to pay to the defendants therein, Aquilino Calvo, Vicente T. Fernandez and Martin Jamias the sum of P4,353.05, the amount of a deposit made by the municipality as part payment of the value of the land expropriated. On the following day, June 30, 1926, counsel for Juana Ordoñez

filed a motion in the said proceedings praying that the order for the payment of P4,353.05, be revoked and that the provincial treasurer be ordered to retain the money. The motion was opposed by counsel for Calvo, Fernandez, and Jamias on the ground that Juana Ordoñez was not a party to the action and had no right to appear in the case, but on July 20, 1926, the respondent judge granted the motion, revoked the order of June 29, 1926 for the payment of the money to the herein petitioners, and, for the purpose of affording the parties an opportunity to settle the controversy by an action of interpleader, ordered the provincial treasurer to retain the money mentioned in said order until further orders of the court. The petitioners immediately filed a motion for reconsideration which was denied, and they thereupon brought the present action in this court. It may be noted that two weeks later the provincial treasurer of Pangasinan brought an action in the Court of First Instance of that province requiring the various claimants to interplead and litigate their adverse claims among themselves.

The petitioners' contention is that the decision or judgment of November 25, 1925, definitely settled their right to receive the indemnity for the expropriation of the parcel in question, and that said judgment having been declared final and non-appealable, the respondent judge exceeded his jurisdiction in ordering the provincial treasurer to retain the money awarded to the petitioners, thus preventing the execution of the judgment.

This contention is clearly untenable. Assuming that the judgment of November 25, 1925, constituted a final determination of the petitioners' right to receive the award—a proposition which is plausibly disputed by the respondent—it is to be observed that Juana Ordoñez was not a party to the expropriation proceedings and therefore is not bound by that judgment. She acquired her alleged rights subsequently to the rendition of the judgment, but the indemnity not having been paid, the title to the land still remained with Calvo and had not passed to the plaintiff in the expropriation proceedings. Her claim that she, through the purchase of Calvo's interest in the land, stands subrogated to his right to the indemnity for its expropriation, has therefore the appearance of validity and she is clearly entitled to a judicial determination of the claim. That may properly be accomplished in an action of interpleader under section 120 of the Code of Civil Procedure, and, as has already been stated, such an action is now pending. In these circumstances, it was not only the right but the duty of the respondent judge to stay the execution of his judgment. Whenever necessary to promote the ends of justice, courts have the undoubted power temporarily to stay executions of judgments rendered by them. (*Sawin vs. Mount Vernon Bank*, 2 R. I., 382; *State ex rel. Newell vs. Third District Court*, 37 Utah, 418.)

The petition for a writ of certiorari is denied with the costs against the petitioners. So ordered.

Avanceña, C. J., Johnson, Street, Malcolm, Johns, Romualdez, and Villa-Real, 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.