

THE GOVERNMENT OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. ARSENIO MENDOZA, DEFENDANT AND APPELLANT.

G.R. No. 27780. January 24, 1928

Ponente: VILLA-REAL, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-27780/>

VILLA-REAL, J.:

The necessary and pertinent facts for the solution of the only question, which is one of law, raised by the defendant-appellant Arsenio Mendoza in the present appeal, are as follows:

After the Court of First Instance of Manila had approved the bill of exceptions filed by the defendant-appellant Arsenio Mendoza in perfecting his appeal from the judgment of the said court of December 15, 1926, in which he was ordered to pay the plaintiff-appellee, the Government of the Philippine Islands, or the Postal Savings Bank, within ninety days, the sum of P25,534.32 with interest at the rate of 9 per cent per annum from December 11, 1926, until fully paid, with the costs, and in case of the non-compliance therewith the mortgaged properties were ordered sold at public auction, on March 26, 1927, said defendant-appellant filed a motion praying that the plaintiff be ordered to amend his complaint to include Ramon M. Villa-Juan as defendant, who had acquired, by purchase from said defendant-appellant on January 21, 1920, the properties here in question. It does not appear that said sale was registered in the registry of deeds. The trial court denied said motion by an order of June 4, 1927, to which the defendant-appellant duly excepted and filed an amended bill of exceptions.

In support of his appeal the appellant assigns the following alleged error as committed by the trial court, to wit:

"The trial court committed an error in not ordering that the purchaser of the mortgaged property be included as defendant."

In support of his contention the defendant-appellant cites section 122 of the Code of Civil Procedure, which reads as follows:

"SEC. 122. Necessary parties.—The court may determine any controversy between parties before it if it can be done without prejudice to the rights of others or by preserving their rights for future action; but when a complete determination of the controversy cannot be had without the presence of other parties, the court must order them to be brought in, and to that end may order amended or supplemental pleadings, or a cross complaint, to be filed and summons therein to be duly issued and served."

In the first place, the transfer of the mortgaged property by the defendant-appellant Arsenio Mendoza to Villa-Juan not having been registered in the registry of deeds nor noted on the certificate of title, has no binding effect as against the mortgagee, the Government of the Philippine Islands, under section 50 of Act No. 496 and, consequently, said purchaser is not a necessary party to the action brought for the foreclosure of said mortgage (27 Cyc., 1572 [II]).

Even if said transfer were registered in the registry of deeds and noted on the certificate of title, still, the purchaser would not be a necessary party, the transfer having been made after the judgment was rendered, for a person who

had no interest in the thing in litigation at the time judgment was rendered cannot be a necessary party. (27 Cyc., 1570 [C] and 1795 [2].)

In the second place, the motion praying for the inclusion of the purchaser Ramon Villa-Juan as defendant having been presented after the court had approved the bill of exceptions, said court no longer had jurisdiction to consider the motion, having lost it by virtue of said approval. (Rustia vs. Judge of First Instance of Batangas, 44 Phil., 62.)

The notion that a person who has not acquired any interest in the thing in litigation except after the decision of the controversy cannot be a party thereto is so elementary, that an appeal taken for the only purpose of raising the question of whether or not said person is a necessary party is frivolous and the appellant is liable to the imposition of double costs.

In view of the foregoing, the order appealed from is affirmed, with double costs against the appellant. So ordered.

Johnson, Street, Malcolm, Ostrand, Johns, and Romualdez, 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.