

BANK OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. B. A. GREEN, DEFENDANT AND APPELLANT.

G.R. No. 29345. December 22, 1928

Ponente: VILLA-REAL, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-29345/>

VILLA-REAL, J.:

In support of his appeal the appellant assigns the following alleged errors as committed by the trial court in its aforesaid order, to wit:

"1. The lower court erred in confirming the sale without giving defendant an opportunity to be heard on his objection to the motion seeking confirmation of the sale.

"2. The lower court erred in confirming the sale notwithstanding the fact that the price thereof was grossly inadequate."

On April 25, 1924, the Court of First Instance of Manila rendered judgment in the present case, sentencing Benjamin A. Green to pay the plaintiff the sum of P57,900 minus P62.24, with the agreed interest at the rate of 12 per cent per annum from August 9, 1921, plus 10 per cent on the principal as attorney's fees and court costs.

Said judgment having become final, on June 4, 1927 the said court issued a writ of execution, by virtue of which the sheriff of the City of Manila, after having given notice of the sale by publication, on October 9, 1927, sold the property at public auction to the herein plaintiff-appellee, which was the only bidder for the sum of P25,000.

On November 15, 1927, said plaintiff moved for the confirmation of the said sale.

Counsel for the defendant having been notified of said motion, and the date of the hearing thereof, they filed the following opposition:

"Comes now the defendant, by his undersigned attorneys, and opposes the confirmation of the sale of the mortgaged property to the Bank of the Philippine Islands for the price of P25,000 upon the ground that said price is grossly inadequate and unconscionably low.

"The property sold at auction is situated on Azcarraga Street, in the City of Manila, and contains an area of 2,035 square meters. It together with other properties were mortgaged to the Bank of the Philippine Islands to secure the payment of P50,000. Upon this particular parcel also exists a second mortgage in favor of Mr. S. W. O'Brien to guaranty an indebtedness amounting to more than P35,000.

"Considering the location and area of the real property in question, it is easily worth P60,000, and to sell it for P25,000 even at a public auction sale is unjust and unconscionable.

"Wherefore, the defendant prays the court to disapprove the said sheriff's sale.

Before the opponent had an opportunity to present his evidence in support of his opposition, on December 21, 1927 his attorneys received from the clerk of the Court of First Instance of Manila the following notification:

"You are hereby advised that on December 16, 1927, an order was issued in the above-entitled case, confirming the sale at public auction of the property of the defendant B. A. Green, which was the subject matter of the present action for the foreclosure of the mortgage, carried out by the sheriff of the City of Manila on October 9, 1927."

Because the reasons adduced to support the two assignments of error are so closely related, we shall discuss them together.

The only ground alleged in the opposition to the confirmation of the sale filed by the defendant, is that the price of P25,000 for which the land in question was sold is inadequate and beyond all reason, said property being easily worth P60,000. It is not alleged in said opposition that there were any irregularities at the sale which could annul it.

Even if it were true that the land in question is worth P60,000, the fact that it was sold for only P25,000, no higher price having been offered than that given by the plaintiff, is not in itself enough to annul the sale, which was carried out with strict observance of the procedure prescribed by the law, and without any irregularity to vitiate it. Moreover, it has not been alleged in the opposition that in case of a resale a greater price than P25,000 could be obtained.

In the appeal taken by the said defendant from an order of the said Court of First Instance, confirming the sale of the said property made by the sheriff of Manila to the herein plaintiff for the sum of P10,000, assigning as one of the grounds of the opposition the inadequacy of the price, this court found no merit in such a ground in view of the doctrines laid down in the cases of Warner, Barnes & Co. vs. Jaucian and Jaucian (13 Phil., 4); Warner, Barnes & Co. vs. Santos (14 Phil., 446); and National Bank vs. Gonzalez (45 Phil., 693).[1] If in that case the inadequacy of the price of P10,000 was not considered sufficient to annul the order confirming the sale, which was annulled for another reason, much less reason can it be considered in the present appeal that the price of P25,000, is inadequate to annul the order confirming the sale in question.

For the foregoing, we are of the opinion and so hold, that inasmuch as the opposition to the confirmation of the sale made by the sheriff of the City of Manila pursuant to the execution only alleged as a ground that the price of P25,000 for which the mortgaged property was sold was absolutely inadequate and unreasonable, and whereas it has heretofore been held by this court that the price of P10,000 for which the same property was sold at the first auction, notwithstanding that it was inadequate, was not sufficient in itself alone to annul the order confirming said sale; therefore, the fact that the opponent was not given an opportunity to present evidence in support of the allegations of his opposition with evidence does not constitute a prejudicial error which would nullify the order confirming the sale made by the sheriff, which is the subject matter of the present appeal.

By virtue whereof, the order appealed from is affirmed, with costs against the appellant. So ordered.

Avanceña, C. J., Johnson, Street, Malcolm, Villamor, Ostrand, Johns, and Romualdez, JJ., concur.

[1] 48 Phil., 284.

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.