

**THE PHILIPPINE SUGAR ESTATES DEVELOPMENT COMPANY, LTD.,  
INC., PLAINTIFF AND APPELLEE, VS. CIPRIANO E. UNSON,  
SECRETARY OF COMMERCE AND COMMUNICATIONS, AND A. D.  
WILLIAMS, DIRECT...**

*G.R. No. 30342. September 26, 1929*

Ponente: VILLAMOR, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-30342/>

---

**VILLAMOR, J.:**

It appears from the record: That the parcel of land involved in this complaint was a part of the friar lands purchased by the Government of the Philippine Islands from the religious corporations and sold to the occupants thereof, and to other entities and persons; that "El Real" canal involved in this complaint forms a part of the irrigation system of the friar lands; that on August 23, 1921, the plaintiff applied to the Director of Lands for permission to install a turbine which is the subject matter of this case, in "El Real" canal for electric power development purposes for its sugar central located in the place called Real, within the jurisdiction of Calamba, Laguna; that the Director of Lands granted said permission applied for, but on November 23, 1925 revoked the permission granted on September 21, 1921, suggesting that the plaintiff obtain another permit from the Secretary of Commerce and Communications, through the Director of Public Works, in accordance with the provisions of Act No. 2152, as amended by Acts Nos. 2652 and 3208; that in or about the month of May, the defendants attempted to prevent the use of the waters in said canal and the working of said turbine, thus compelling the plaintiff to apply to the Director of Public Works for authorization for such use under the provisions of the Irrigation Act; and that the plaintiff, believing itself entitled to use the waters in "El Real" canal in Calamba, Laguna, for irrigation purposes and to maintain the turbine at present established therein without having to resort to the provisions of the Irrigation Act, instituted the present action.

The court below rendered judgment holding that the plaintiff is entitled to locate and maintain the turbine in question in the canal called "El Real" where it has been located, without the need of obtaining permission from the Director of Public Works, stating the grounds of said judgment in the following terms:

"The whole question in this case is whether the plaintiff is entitled to maintain the turbine it has placed in the canal called 'El Rear shown on plan Exhibit 2, without obtaining the permission of the Director of Public Works.

"The question is determined by the Torrens title to the land, wherein it appears that the Court of Land Registration, in view of the facts it found and of an agreement between the plaintiff and the Government of the Philippine Islands, deliberately decreed the registration of all the lot described in Exhibit 2, in the name of the plaintiff, considering it only as a lien that the Government and its successors were entitled to share with the plaintiff the use of the waters that ran through the canal, according to the laws and customs in the Philippines in the year 1898, as per agreement of the parties in the preliminary contract of December 22, 1903, and that the Government or its successors would have a right of way over the land for the purpose solely of repair, preservation, maintenance and improvement of said canal. If the Government has expressly recognized the

plaintiff's right to use the waters running through the canal, without limiting the nature of the use they may be put to, and if, moreover, the whole canal belongs to the plaintiff as an integral part of the lot, and if, lastly, the whole right of the Government and its successors is an easement of waters, it seems evident that the plaintiff may locate and maintain the turbine in question at the place where it was placed in said canal, within said lot, without the necessity of obtaining permission from the Director of Public Works.

"The easement in favor of the Government and its successors is only for the use of the waters running through this canal, for the irrigation of the lands to the east of the land in plan Exhibit 2, and the turbine installed does not in any way prejudice the irrigation of the lands below. In fact there can be no dispute on this point, for the Director of Lands, who is in charge of the irrigation system of the Calamba Estate, has given his permanent consent in the letter of September 21, 1921 (Exhibit B), although four years later, he revoked the permission, believing that the matter fell under the jurisdiction of the Director of Public Works, and for no other reason. (Exhibit C.)

"The letter Exhibit A is not a sufficient ground for alleging estoppel, because, the Government being a co-participant in the use of the water, nothing could be more natural than to obtain the consent of the branch of the Government in charge of the administration of the irrigation system of which the canal is a part, and because neither the letter nor any other evidence has shown that the Government has acted with prejudice to itself by reason of said letter."

From this judgment, the defendants appealed, and now allege that the trial court erred: (1) In not finding: that "El Real" canal is a part of the irrigation system of the Calamba Estate, owned by the Government of the Philippine Islands; (2) in not finding that the plaintiff is estopped from denying the ownership and right of the Government to exclusively control, regulate, and grant permission for the use of the waters of "El Real" canal, for irrigation and power development purposes; (3) in finding that under the agreement registered in the plaintiff's certificate of title described in the complaint, the said plaintiff is entitled to the free use of the waters in "El Real" canal, without being subject to the provisions of Act No. 2152, as amended; and (4) in rendering judgment in favor of the plaintiff and against the defendants, and in denying the defendants' motion for a new trial.

As we have said, the land on which the canal in question was constructed, forms part of the lands which the plaintiff company reserved to itself in selling the so-called Friar Lands to the Government of the Philippine Islands, Exhibit 2, and it should be noted that, according to the contract of sale and conveyance executed by the Philippine Sugar Estates Development Company, Ltd., Inc., in favor of the Government of the Philippine Islands, Exhibit 4, "the reservation of any of these parcels (the lands reserved) shall not include the reservoir of the estate, and shall not be used by the Philippine Sugar Estates Development Co., Inc., nor by any successor in the title to the property, to the prejudice of the Government of the Philippine Islands, or of any successor in the ownership of the lands hereby conveyed, in so far as relates to the use of its water and the present irrigation system, which shall continue for the benefit of both parties in accordance with the laws and customs prevailing in the Philippines in 1898." And in registration proceeding No. 9933, the Philippine Sugar Estates Development Co., Ltd., applicant, the latter and the Director of Lands, as oppositor, entered into a written agreement, attached to that record, and quoted in the decision of the Court of Land Registration, as follows:

"It is hereby covenanted and agreed by and between the applicant and the Government of the Philippine Islands, through their respective attorneys in the above-entitled case:

"1. That the waters in a canal passing through the parcel of land denominated 'Real,' described in the plan 11-7556, Exhibit C of the applicant, and which irrigate the lands situated to the east of said parcel, must and shall be used by and for the benefit of both the corporation 'Philippine Sugar Estates Development Co., Ltd.' or its successors, and the Government of the Philippine Islands or its successors, in accordance with the laws and customs in the Philippine Islands in 1898, according to the agreement in the preliminary contract of December

22, 1903 between said corporation and the Government of the Philippine Islands; provided, that the Government of the Philippine Islands or its successors shall be entitled to a right of way through this parcel, solely for the purpose of the repair, preservation, maintenance, and improvement of said canal."

These agreements were made an integral part of the decree of adjudication and of the certificate of title in favor of the plaintiff. (Exhibit 3.)

According to the evidence of record, it seems clear to us that "El Real" canal in which the turbine in question was built, is part of the irrigation system of the Calamba Estate, purchased by the Government of the Philippine Islands, and we are likewise of opinion that the Government has control of said canal so that, according to the title of said plaintiff, the Government of the Philippine Islands or its successors has or have a right of way through this parcel described in Exhibit 2, only for the purpose of repair, preservation, maintenance, and improvement of said canal. It seems unnecessary to indulge in a long discussion in order to reach the conclusion that said canal belongs to the Government, it being understood in the plaintiff's own title that the Government is bound to repair, preserve, maintain, and improve said canal, for the simple reason that, if the canal belonged to another person, the Government would not assume the responsibility of making the necessary repairs and taking charge of the preservation, maintenance, and improvement thereof.

With regard to the waters in "El Real" canal, we believe that according to the terms of the aforementioned contract of sale, and more concretely, according to the plaintiff's certificate of title, said waters "must and shall be used by and for the benefit of both the corporation Philippine Sugar Estates Development Co., Ltd., or its successors, and the Government of the Philippine Islands or its successors, in accordance with the laws and customs in the Philippine Islands in 1898." The provisions of the Law of Waters of 1866 which was in force then, pertinent to the case, are contained in articles 266 and 267 of said law, and are as follows:

"ART. 266. The power to grant permission to operate, near the banks of rivers, whether navigable or floatable, or not, mills or other industrial contrivances in buildings there erected, to which the necessary water is to be conveyed through artificial channels, said water afterwards reincorporating itself with the main streams, shall lie within the province of the Governor. Before granting such permission, the complete plans of the works shall be filed and given due publicity, and an investigation of record shall be made, in the course of which the owners of dams near by, both higher up and lower down the stream, shall be cited. In no case shall this permission be granted to the prejudice of existing industrial establishments or of the navigation or floatation of the river.

"ART. 267. Before water running through a canal or irrigating ditch belonging to a community of irrigators may be used as a motive power for any stationary mechanism permission therefor must be obtained from such community. For this purpose the members shall be called together in a general meeting, at which the Vote of a majority of those present shall be binding, the majority to be computed on the basis of the property that each one represents. If the permission should be refused, an appeal shall lie to the Governor, who, after hearing the irrigators, the Engineer of the Province, and the Provincial Council, may grant the privilege, provided it does not injure the irrigation interests or other industries, and the community of irrigators do not themselves wish to make use of the motive power; in the latter event they shall have the preference, but with the obligation of beginning the work within one year."

Admitting that the plaintiff and the Government of the Philippine Islands or its successors form an irrigation community, and supposing said community to be the owner of the canal in question, the plaintiff, according to article 267, cannot make use of the waters that run through "El Real" canal by means of a turbine, without the permission of the Government. Considering that the Government acquired control of "El Real" canal by virtue of a contract of sale on December 22, 1903, the plaintiff, a fortiori, must obtain permission from the Government. Moreover, that the provisions of the Law of Waters quoted above were modified by Act No. 2152, that is, the

Irrigation Act, passed on February 6, 1912, is very clear. Section 14 of said Act provides that any person thereafter desiring to appropriate or make use of public waters should first make an application to the Secretary of Commerce and Police through the Director of Public Works.

It is true that according to the certificate of title of the plaintiff, the waters running through "El Real" canal were to be used by and for the benefit of the plaintiff or its successors, as well as by the Government of the Philippine Islands or its successors; but it appears in the said certificate of title that such use is to be in harmony with the laws and customs in the Philippine Islands in the year 1898, according to the agreement in the preliminary contract dated December 22, 1903, by and between said corporation and the Government of the Philippine Islands; or, more specifically, in accordance with section 14 of the Irrigation Act, which modified said provision of the Law of Waters.

In reaching this conclusion, we are aware of section 50 providing that this act shall not work to the detriment of rights acquired prior to its passage. And the plaintiff having acquired the right to use the waters of "El Real" canal jointly with the Government of the Philippine Islands or its successors before the passage of the Irrigation Act, we believe the provisions thereof with respect to the rental to be paid by the appropriates (sections 21 and 22, Act No. 2152) are not binding on the plaintiff.

By virtue of the foregoing, the judgment appealed from should be, as it is hereby, reversed, and the defendants absolved from the complaint, which is hereby dismissed, without special pronouncement as to costs. So ordered, Avanceña, C. J., Johnson, Street, 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.