

PATRICIO PEREZ, PLAINTIFF, VS. JOHN C. SWEENEY, JUDGE OF THE COURT OF FIRST INSTANCE OF MANILA, ET AL., DEFENDANTS.

G.R. No. 3056. March 25, 1907

Ponente: JOHNSON, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-3056/>

JOHNSON, J.:

On the 15th day of February, 1902, Felipe G. Calderon commenced an action in the Court of First Instance of the city of Manila against Alfonsa Toledo de Pascual for the purpose of recovering a sum of money amounting to 4,000 pesos, with interest at 8 per cent from the 20th day of June, 1901.

On the 31st day of May, 1902, the said Court of First Instance dictated a sentence condemning the defendant to pay to the plaintiff the said sum of money. On the 6th day of August, 1903, the said plaintiff in that action, Felipe G. Calderon, secured a writ of execution out of the said Court of First Instance against the defendant, Alfonsa Toledo de Pascual, and attached certain credits which the said Pascual had with the firm of Mendezona & Co., and later, on the 14th day of September, 1903, said credits were sold at public sale by the sheriff of the city of Manila to Patricio Perez, the plaintiff in this action, and the said sheriff on the same day delivered said credits to the said Perez.

On the 21st day of November, 1905, the defendant in this action, Alfonsa Toledo de Pascual, presented a motion in the Court of First Instance asking that said sale of credits made in favor of the said Patricio Perez be annulled and that the said Mendezona & Co. be ordered to pay the amount of the credits to the said Alfonsa Toledo de Pascual. After hearing the motion the defendant in this action, John C. Sweeney, annulled the said public sale of credits in an order dated the 4th day of December, 1905.

In the order made by the defendant, John C. Sweeney, dated the 4th day of December, 1905, it appears that the said defendant annulled the sale of the credits upon the ground that—

"The levy and sale in this case of the account was absolutely void, and must be so declared. It is therefore ordered by the court that the said sale of said account be set aside and that Alfonsa Toledo de Pascual take charge of said accounts."

The said defendant, as judge of the Court of First Instance, gave as his reasons for annulling the sale of said accounts or credits the following:

"Choses in action can not be physically levied on and sold by execution or attachment."

The defendant, as judge of the Court of First Instance, evidently overlooked the provisions of section 450 of the Code of Procedure in Civil Actions, which provides what property may be attached. Said section provides, among other things, that—

"Shares and interests in any corporation or company, and debts, credits, and all other property, both real and personal, * * * and all other property not capable of manual delivery, may be attached on execution, in like manner as upon writs of attachment."

It will thus be seen that the reasons given for annulling the sale of said accounts or credits were not well founded in law.

It will be noted further that the decision of the lower court, rendering judgment in favor of the said Calderon and against the said Alfonsa Toledo de Pascual, was rendered upon the 31st day of May, 1902; that the credits were sold under the said writ of execution at public sale and delivered to the plaintiff in this case, Patricio Perez, upon the 14th day of September, 1903; that the motion made by the said Alfonsa Toledo de Pascual to set aside the sale of said credits under the execution was made upon the 21st day of November, 1905, and that the order of the defendant in this case, John C. Sweeney, then acting as judge of the Court of First Instance of the city of Manila, setting aside the sale was made upon the 4th day of December, 1905. Thus it is seen that the plaintiff in this cause, the said Patricio Perez, purchased the said credits at a public sale on the 14th day of September, 1903, and that the sale was set aside by order of the defendant, John C. Sweeney, on the 4th day of December, 1905, or more than two years after the said sale.

The Code of Procedure in Civil Actions provides that at the time of the sale of personal property under a writ of execution the sheriff must deliver to the purchaser the property, and that such delivery conveys to the purchaser all the right which the debtor had in such property on the day that the execution or attachment was levied. (See secs. 461 and 462 of the code.) The title, therefore, of the credits in question passed to the plaintiff, Patricio Perez, in absoluto on the 14th day of September, 1903, and he could not, therefore, be deprived of the same except by due process of law. (Sec. 5, Act of Congress of July 1, 1902.)[1]

It will be further noted that the term of court (May, 1902) in which the original decision was rendered in favor of the said Calderon and against the said Alfonsa Toledo de Pascual ended on the 30th day of June of the same year. (Sec. 3, Act No. 140.)[2] It is contended that as a general rule a trial court has no right or jurisdiction to change, modify, or annul a sentence after the close of the term in which said sentence is rendered. Section 144 of the Code of Procedure in Civil Actions provides when a judgment becomes final; and when a judgment becomes final the trial court has no authority to change it or set it aside, except for special reasons such as fraud, etc. This being the rule of law, then a trial court which attempts to set aside or annul a final decision exceeds its jurisdiction. The Supreme Court of the United States in discussing this question in the case of *Cameron vs. McRoberts* (16 U. S., 590), said that—

"In this case the court had not power over its decree, so as to set the same aside, on motion, after the expiration of the term in which it was rendered." (*McMicken vs. Perin*, 18 How., U. S., 507.)

In the case of *Phillips et al. vs. Negley* (117 U. S., 665) the Supreme Court of the United States said at page 673:

"It is a general rule of law that all the judgments, decrees, or other orders of the court, however conclusive in their character, are under the control of the court which pronounces them, during the term at which they are rendered or entered of record, and they may be set aside, vacated, modified, or annulled by that court. But it is a rule equally well established that, after the term has ended, all final judgments and decrees of the court pass beyond its control, unless steps be taken during that term, by motion or otherwise, to set aside, modify, or correct them; and if errors exist, they can only be corrected by such proceeding, by a writ of error or appeal * * *. So strongly has this principle been upheld by this court that, while realizing that there is no court which can review its decisions, it has invariably refused all applications for rehearing made after the adjournment of the court for the term at which the judgment was rendered. And this is placed upon the ground that the case has passed beyond the control of the court."

In the case of *the United States vs. Pile* (130 U. S., 280) the Supreme Court of the United States said (syllabus):

"The suspension of the execution of a judgment in a criminal case until the next term of court, unaccompanied by any pending motion for a rehearing or modification of the judgment or other proceeding taken at the term of

court when the judgment was rendered, leaves the judgment in full force, and the court without further jurisdiction of the case."

Citations might be added to the above ad infinitum.

In the motion made by the said Alfonsa Toledo de Pascual to have the said sale, made under the said execution, set aside, there was no allegation of fraud or collusion, or lack of jurisdiction on the part of the parties to the said original action commenced in the Court of First Instance upon the said 15th day of February, 1902. Therefore, for the foregoing reasons, the judgment rendered by the defendant, John C. Sweeney, on the 4th day of December, 1905, is hereby reversed and annulled. After the expiration of ten days let judgment be entered in accordance herewith. So ordered.

Arellano, C. J., Torres, and Mapa, JJ., concur.

Tracey, J., dissents.

[1] 1 Pub. Laws, 1057.

[2] I Pub. Laws, 275.

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.