

**NARCISA JAVIER, SIXTO JAVIER AND MAURICIA JAVIER,
PETITIONERS, VS. ISIDRO PAREDES, JUDGE OF THE COURT OF FIRST
INSTANCE OF LAGUNA, AND TOMASA GREGORIO, FOR HERSELF
AND AS THE JU...**

G.R. No. 30953. March 07, 1929

Ponente: OSTRAND, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-30953/>

OSTRAND, J.:

On August 20, 1913, the herein petitioners, together with one Gregoria Javier, as the heirs of their deceased father, Vicente Javier, brought civil case No. 1530 of the Court of First Instance of Laguna against Claro Pempengco, now deceased, and whose estate is represented by his widow, the respondent Tomasa Gregorio, as the judicial administratrix, to recover the ownership of a one-third interest in two parcels of land situated in the barrio of Bubukal, Santa Cruz, Province of Laguna, and to effect a partition of said parcels of land between them and the said Claro Pempengco. The other petitioner herein, Mauricia Javier, intervened in the case and filed a supplemental complaint therein, claiming the other two-thirds of the land. The case was decided adversely to the plaintiffs by the Court of First Instance, but upon appeal to this court, a decision was rendered on November 24, 1919,[1]

reversing the judgment of the lower court and holding that an alleged sale with the right to repurchase, relied upon by Pempengco as the source of the title claimed by him, was merely an equitable mortgage given as security for a loan and that the plaintiffs in the case might redeem the parcels by paying Pempengco the sum of P456, with interest at the rate of 6 per cent per annum from May 24, 1915. After the decision became final, the plaintiffs deposited with the Court of First Instance the sum required for the redemption of the land and on January 22, 1920, moved that court to issue a writ of execution for the possession of said lands and for the amount due them for the products thereof in accordance with the decision of the Supreme Court.

In the meantime and while the appeal to the Supreme Court in case No. 1530 was pending, Pempengco and his wife, Tomasa Gregorio, obtained Torrens title to the land without advising the plaintiffs and without mentioning them in the application for registration, and before any action was taken on the aforesaid motion for execution, they instituted civil case No. 3065 of the Court of First Instance of Laguna against the Javiers and the sheriff of Laguna to restrain them from executing the final judgment of the Supreme Court in case No. 1530, basing the action on the ground that, holding a Torrens title for the land, they, the defendants in execution, were the absolute owners of the land and, as such, could not be deprived of their title and possession.

On April 29, 1920, the Court of First Instance, over which the herein respondent judge was presiding, issued an order in the nature of a decision in said case No. 3065, in which order it was declared that Claro Pempengco had been guilty of fraud in procuring a Torrens title for the aforesaid lands and for that reason could not be granted any equitable relief; that the decision of the Supreme Court in case No. 1530 was final and conclusive between the parties; and that the title to said lands was res adjudicata. The complaint in case No. 3065 was therefore dismissed

with costs against the plaintiff, and on April 30, 1920, the court ordered the issuance of the writ of execution of the judgment of the Supreme Court in case No. 1530, as a result of which the plaintiffs in that case were duly placed in possession of the lands.

The plaintiffs in said civil case No. 3065 excepted to the order of April 29, 1920, and moved that a new trial be granted but shortly afterwards withdrew the motion for a new trial and, giving notice of appeal, filed a bill of exceptions, but on June 14, 1920, the presiding judge, the Honorable Isidro Paredes, denied the right of said plaintiffs to withdraw their motion for a new trial. He also disapproved the bill of exceptions, and no further action was taken by the plaintiffs to perfect the appeal.

Some time thereafter, a new counsel Ramon Diokno, appeared in the case, and upon a new trial, a decision was rendered by the Court of First Instance on May 14, 1927, relieving the plaintiffs in said case No. 3065 from the effects of the final decision of the Supreme Court in case No. 1530 on the ground that the adverse judgment in that case was due to error and excusable negligence on the part of said plaintiffs and that under the provisions of section 113 of the Code of Civil Procedure, they were entitled to relief from said judgment; that the plaintiffs were the owners of the land in question and should be placed in possession of the same; that they had the right to recover the amount allowed the defendants in the final decision of the Supreme Court, with legal interest from May 25, 1920, and should also recover the value of fruits of the lands from May 25, 1920, in the sum of ₱500 per year, and the costs of this action.

The defendants excepted to the decision on June 3, 1927, and presented the usual motion for a new trial on the 20th of the same month. On July 11, the court denied that motion and ordered the execution of the judgment unless the defendants gave bond in the sum of ₱7,000 within ten days. Contrary to law, no special reason for such execution was mentioned by the court. No bond was filed, and in the execution of the judgment, the land was again turned over to the plaintiffs in that case.

Upon appeal by the defendants in said case No. 3065, this court, in a decision promulgated on April 30, 1928,[1] reversed the judgment of May 14, 1927, and ordered that the land in question be restored to the appellees; that such other property or funds as might have been seized under the execution ordered by the court below, be returned to the defendants; that in the event the judgment of the Supreme Court in case No. 1530 had not been satisfied, an alias writ of execution might issue for the unsatisfied balance; that the portions of the land in question be segregated from the rest of the land registered; that such segregation be made by a licensed surveyor at the expense of the defendants and subject to the approval of the Director of Lands; that thereupon the certificate, or certificates, of title issued in favor of Claro Pempengco and Tomasa Gregorio be cancelled and that transfer certificates of title be issued to the defendants, the respective shares of each to be stated in the certificates as might be agreed upon in writing by said defendants and duly acknowledged before a notary public; and that transfer certificates of title for the remaining portions of the registered land might then be issued in favor of Tomasa Gregorio and the estate of Pempengco.

Upon the return of the record of said civil case to the Court of First Instance, the defendants Javier had the portions of the lands adjudicated to them segregated by a duly licensed surveyor and had the respective undivided shares of each of the parties defendant in said case determined by a public instrument and otherwise duly complied with the decision of the Supreme Court in that case and, on or about July 15, 1928, they filed a motion in the Court of Pempengco and Gregorio vs. Javier, G. R. No. 28313, not reported. First Instance setting forth the facts and, in substance, praying that the other provisions of the dispositive part of the decision of the Supreme Court be executed. On July 31, 1928, after due notice, an order was issued by the court below, substantially granting said motion.

Before the order was complied with, Attorney Marcelino Lontok appeared in the case, and on or about September 3, 1928, the herein respondent, Tomasa Gregorio, for herself and as the judicial administratrix of the estate of Claro Pempengco, through Attorney Lontok, instituted another action, civil case No. 5050 of the Court of First Instance of Laguna, against the herein petitioners, alleging for the third time that the said Claro Pempengco, during his life time, had purchased the said two parcels of land, which were the subject matter of the aforesaid civil cases Nos. 1530 and 3065, and was the owner and in possession of said parcels of land; that the defendants Javier had obtained the judgment in said case No. 1530 in their favor by means of fraud in that they had knowledge of the existence of an alleged document of sale of said lands in favor of the plaintiffs but, nevertheless, had presented false proof to sustain their contention, and that they were in estoppel and had no personality to bring said civil case No. 1530, and that by reason thereof, the plaintiff had been damaged in the sum of P10,000. The plaintiff therefore prayed the court again for judgment declaring null and void the final judgment of the Supreme Court in said case No. 1530, as well as its final judgment in said case No. 3065, in so far as it in those decisions was ordered that the title issued in favor of said plaintiff and the said Claro Pempengco be cancelled, and for the recovery of the sum of P10,000 as damages, with the costs.

Shortly after the filing of the complaint in said civil case No. 5050, Tomasa Gregorio filed a motion praying that she be relieved from the effects of the order of July 31, 1928, and on September 25, 1928, the defendants in civil case No. 3065 filed another petition for the execution of the final judgment of the Supreme Court in so far as the possession of the lands in question was concerned. On December 12, 1928, the court denied the motion of Tomasa Gregorio and granted the petition of the Javiers to the extent of ordering that a writ of execution be issued, but on the 21st of the same month, the respondent judge, on motion of Tomasa Gregorio, appointed a receiver of the products of the land in question upon the filing of a bond of P500 by the plaintiff and P1,000 by the receiver, and denied another motion filed by the Javiers for the dismissal of case No. 5050 on the ground that the subject matter of the complaint was *res adjudicata* and that the court had no jurisdiction to modify or annul the final decisions of the Supreme Court in civil cases Nos. 1530 and 3065,

On December 27, 1928, the plaintiff in case No. 5050 filed an amended complaint, containing substantially the same allegations as those appearing in the original complaint, and further stated that the plaintiff and the said Claro Pempengco had cleared the said lands after the purchase by them and planted them to coconuts and that they spent at least P3,000 in doing so.

Thereupon Narcisa, Sixto and Mauricia Javier brought the present action for a writ of certiorari and based their petition on the following propositions:

"(a) That the whole subject matter of the complaint, as well as the amended complaint, in said civil case No. 5050, of the Court of First Instance of Laguna is *res adjudicata*, as clearly shown by the records and the final decisions of the Supreme Court in said civil cases Nos. 1530 and 3065, of the Court of First Instance of Laguna, between the same parties;

"(b) That the respondent Judge of the Court of First Instance of Laguna has no jurisdiction to modify, vary or annul the final decisions of the Supreme Court in said civil cases Nos. 1530 and 3065, of the Court of First Instance of Laguna, adjudicating the lands in question to the petitioners herein and to Gregoria Javier, as prayed for in the complaint in said civil case No. 5050, of the Court of First Instance of Laguna, or to grant any other relief prayed for therein, and consequently he had no jurisdiction to proceed with said action, which should have been dismissed in accordance with the motion of the defendants therein of October 2, 1928;

"(c) That the respondent Judge of the Court of First Instance of Laguna has not regularly pursued his authority and has acted not only in excess of but without jurisdiction and in manifest and gross abuse of the discretion imposed in him by the law in appointing a receiver of the products of the lands of the defendants in said civil case No. 5050, of the Court of First Instance of Laguna, under the showing made by the plaintiff in her petition

therein, as the said plaintiff has no right, title or interest in said lands or the fruits thereof, as conclusively shown by the final decisions of the Supreme Court in said civil cases Nos. 1530 and 3065, of the Court of First Instance of Laguna, between the same parties, which were attached to and made a part of the opposition of the defendants to the appointment of said receiver, and its said order of December 21, 1928, appointing a receiver of the fruits of said lands of the defendants is null and void;

"(d) That the said civil case No. 5050, of the Court of First Instance of Laguna, has been maliciously brought by the plaintiff therein with the sole, deliberate and fraudulent intention of hindering and preventing, if possible, the execution of the final judgment of the Supreme Court in said civil case No. 3065, of the Court of First Instance of Laguna, between the same parties, and thus to delay, hinder and obstruct the administration of justice in order to enrich herself, unjustly and wrongfully, out of the fruits of said lands of the defendants, which lands are still in her possession, knowing that the defendants are poor people and unable to protect their rights unless assisted by others;

"(e) That the action of the plaintiff and her attorney in bringing said civil case No. 5050, of the Court of First Instance of Laguna, and the proceedings taken by them therein, and the action of the respondent judge in said case, as hereinbefore alleged, constitutes a case of contempt of the Supreme Court, which should not be overlooked in the due administration of justice in these Islands; that the petitioners herein have no plain, speedy and adequate remedy at law to correct the proceedings herein complained of."

The petitioners therefore pray:

"(a) That a writ of certiorari be issued, directed to the said respondent, the Honorable Isidro Paredes, as Judge of the Court of First Instance of Laguna, to certify forthwith to this Honorable Court the records and proceedings had in said civil case No. 5050, of the Court of First Instance of Laguna, and especially the orders complained of in this petition, so that the same may be reviewed by this Honorable Court:

"(b) That after final hearing and review of the matters complained of in this petition, that the said orders of December 21, 1928, Exhibits M and N, in said civil case No. 5050, of the Court of First Instance of Laguna, be declared to be not only in excess of but without the jurisdiction of said court, and, therefore, null and void;

"(c) That the respondent judge herein be ordered and commanded absolutely to desist and refrain from further proceeding in said civil action No. 5050, of the Court of First Instance of Laguna, or any matter specified therein, and that he dismiss said action, with treble costs, and reserving to the defendants therein the right to recover from the plaintiff such damages as they have and will suffer by reason of such malicious prosecution;

"(d) That such action be taken by the court in relation to the contumacious conduct of the respondents herein and the attorney for the said Tomasa Gregorio in said civil case No. 5050, of the Court of First Instance of Laguna, as the facts may warrant in order to command due respect for the final decisions and orders of this Honorable Court;

"(e) For treble costs against the respondents; and

"(f) For such other and further relief as to the court may seem just and equitable in the premises."

Both the statement quoted and the prayer are well founded; and it is indeed difficult to believe that civil case No. 5050 has been brought in good faith. It is true that in most jurisdictions in the United States, a judgment procured by fraud may, under certain conditions, be vacated after the expiration of the term of court during which it was rendered, but considering the provisions of sections 113 and 513 of the Code of Civil Procedure, it is exceedingly doubtful whether that rule can be applied in this jurisdiction if the parties have had their day in court. But be that as it may, and assuming for the sake of the argument that said rule is applicable here, it is to be observed that in no jurisdiction can a judgment be thus vacated for fraud where the particular fraud was in issue in the original proceedings. The records show, and the respondents in their answer admit, that the alleged fraud was put in issue

at the trial of civil case No. 3065, and it follows that, under the rule stated, the same question cannot again be raised.

It may also be noted that a suit for the vacation of a judgment is an equitable proceeding, and it is a well known maxim that "he who comes into equity must come there with clean hands." In surreptitiously obtaining Torrens title to the lands in question, Pempengco was guilty of fraud, and his estate is, consequently, not entitled to equitable relief.

The petition is granted, and it is hereby declared that the respondent judge exceeded his jurisdiction in entertaining the aforesaid civil case No. 5050 and that his orders of December 21, 1928, hereinbefore mentioned, are null and void'. It is therefore ordered that said civil case No. 5050 be dismissed, with the costs against the respondent Tomasa Gregorio; that the receiver, Vicente Zotomayor, be discharged, and that he deliver all of the products of the land in question, which may have come into his hands, to the petitioners; that the receiver's compensation, if any there be, shall be paid by the respondent Tomasa Gregorio and shall not be charged against the petitioners'; and that the judgment of this court in civil case No. 3065 shall be executed immediately and without delay. The said respondent shall also pay the costs of this action. So ordered.

Johhson, Street, and Johns, JJ., concur.

Malcolm, Romualdez, and Villa-Real, JJ., concur in the result.

[1] Javier vs. Pempengco, G. R. No. 14943, not reported.

[1] Pempengco and Gregorio vs. Javier, G.R. No. 28313, not reported.

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.