

**TANG AH CHAN, PETITIONER, VS. HONORABLE ANACLETO DIAZ,
JUDGE OF FIRST INSTANCE OF MANILA, ET AL., RESPONDENTS.***G.R. No. 31008. February 25, 1929*

Ponente: STREET, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-31008/>**STREET, J.:**

This is an original petition for the writ of certiorari whereby the petitioner, Tang Ah Chan, seeks to compel the respondent judge of the Sixth Branch of the Court of First Instance of Manila to set aside an order in criminal case No. 34449, entered on December 5, 1928, requiring the petitioner to give bond in the amount of P22,000 to secure his provisional liberty pending his appeal in that case, and to require the same judge to accept another bond to be given by the petitioner in the amount of P9,000; and further to secure a pronouncement from this court declaring that all the proceedings in civil case No. 34700, pending before the respondent judge, are void. The case is now before us upon the allegations of the petition, answer of the respondents, and exhibits, together with briefs submitted by the attorneys for both parties.

In criminal proceeding No. 34449 the petitioner, with his co-accused, one Diosdado Cartesiano, was, on November 28, 1928, convicted of the offense of theft with falsification of private documents and sentenced to undergo imprisonment for eight years, eight months and one day, with the additional requirement of indemnifying the Pacific Commercial Co. in the amount of P30,029.94, the value of 27,000 pounds of butter. Having appealed from said judgment, the petitioner gave bond in the amount of P22,000, as required by the respondent judge, and is now at liberty pending action by this court on the appeal. In the petition it is asserted that the bond required of him is excessive in amount, and attention is directed to the common practice of Judges of First Instance, in cases where imprisonment is imposed in criminal cases, to fix the bond of the appellants at an amount equivalent to about P1,000 for each year of imprisonment. Upon this it is contended that, in the case now under consideration, a bond in the amount of not more than P9,000 would be appropriate.

While it is true that in case of a manifest abuse of discretion on the part of the Court of First Instance in fixing the amount of a bond, this court will entertain an application for the writ of certiorari (*Valdez vs. Querubin*, 37 Phil., 774), nevertheless, in the case before us, we are unable to see that there has been an abuse of discretion on the part of the respondent judge in fixing the petitioner's bond in the amount of P22,000.

In the first place, the petitioner has in fact given the bond, and this shows that the requirement was not beyond his resources. At any rate he is not now deprived of his liberty by reason of his inability to comply with the requirement. Again, the fact that the bond required in this case was largely in excess of that usually required in a criminal appeal is by no means conclusive that the respondent judge has abused his discretion. In determining the amount of this bond his Honor evidently had his attention fixed upon the fact that the petitioner had been found liable for civil indemnity in the amount of more than P30,000; and he appears to have entertained the reasonable fear that, if the bond were fixed as low as P9,000, the petitioner might be tempted to forfeit his bond and abscond, thereby escaping from imprisonment in case of the affirmance of the judgment. This consideration, we think, was legitimate

and under all the circumstances we think that the amount of the bond was not excessive.

It appears that after the petitioner had been convicted in the criminal case and had been admitted to bail pending appeal, the Pacific Commercial Co., the entity whose property was stolen, instituted an independent civil action (No. 34700, of the Court of First Instance of Manila) against the petitioner, based upon the obligation of the latter to indemnify the plaintiff for the value of the property; and at the inception of this action the plaintiff asked for an attachment on the ground that the defendant (the herein petitioner) had disposed, or was about to dispose of his property with intent to defraud his creditors. The attachment having been granted, it was levied upon property belonging to the petitioner, a part of which consisted of the St. Louis Bakery, in the City of Manila, and the furnishings used in connection therewith. Almost immediately after levy had been effected under said attachment, the Pacific Commercial Co. applied to the court before; which the action was pending for the appointment of a receiver, upon a showing that the bakery was chiefly valuable as a going concern and that if it should be shut down under the attachment, its value would be destroyed. The court thereupon appointed a receiver, who is now in charge of the property and conducting it as a going concern.

Upon these facts the petitioner now asks that all of the proceedings in said civil case (No. 34700) be declared void. In this connection it is insisted that, while the criminal action is still pending, the respondent judge has no power to entertain an attachment proceeding based upon the obligation of the petitioner to indemnify the Pacific Commercial Co. for the value of the stolen butter. In support of this contention the attorney for the petitioner cites article 114 of the Spanish Code of Criminal Procedure.

Whether this contention is well founded we consider it unnecessary now to determine; for we are of the opinion that the right of appeal in ordinary course supplies an adequate and proper remedy for any error into which the respondent judge may have fallen upon that point. We may be permitted, however, to observe that we do not consider that the question here raised has been foreclosed by our decision in *United States vs. Namit* (38 Phil., 926), where we held that the remedy of attachment, available, in criminal cases, under the Spanish system of procedure, has been abrogated by General Orders No. 58; for in that case the attachment had been sued out as an incident in the criminal prosecution, while in the case before us the attachment was sued out in an independent civil action instituted in aid of the liability attendant upon conviction in the criminal case.

In conclusion we may observe that this petition for the writ of certiorari contains two distinct causes of action, and a doubt has suggested itself in the minds of some members of this court as to whether an accumulation of distinct causes of action is permissible in a proceedings of this character. But in view of the fact that the petition, in our opinion, shows no valid cause of action in either branch, we pass this question without discussion.

The petition must be dismissed, and it is so ordered, with costs.

Johnson, Malcolm, Villamor, Ostrand, and Romualdez, JJ., concur.

Johns and Villa-Real, JJ., concur in the result.

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.