

ANA CALLEJON SALINAS ET AL., PLAINTIFFS AND APPELLANTS, VS. FELISA ROMAN TUASON AND JOSE MORENO ROMAN, DEFENDANTS AND APPELLANTS.*G. R. No. 33626. March 02, 1931*

Ponente: JOHNSON, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-33626/>**JOHNSON, J.:**

This action was commenced on the 26th day of March, 1928 in the Court of First Instance of the City of Manila for the purpose of recovering the sum of P30,000 with interest at 10 per cent from November 24, 1918. The plaintiffs were residents of the Kingdom of Spain, represented in this action by the Consul General of Spain in the Philippine Islands.

The plaintiffs alleged that they were the heirs of Francisco Cailejon Salinas, who died in Spain in 1911; that the amount of P30,000 which they claimed from the defendants was the proceeds from the sale of two parcels of land situated in San Antonio, Province of Nueva Ecija, particularly described in paragraph four of the complaint; that said lands belonged to their predecessor Francisco Cailejon Salinas, who had been a resident of the Philippine Islands; that said lands were administered by Jose Moreno Lahaba, also a Spaniard, resident of the Philippine Islands, who died in Manila on May 2, 1920; that on November 24, 1918, said Moreno Lahaba sold said parcels of land for the sum of P30,000, but failed and refused to account for that sum to his principal or the heirs of the latter; that said sum passed by way of inheritance to the heirs of Moreno Lahaba, the defendants herein; that said defendants, as such heirs, likewise refused to account to the plaintiffs for said sum of P30,000.

The defendants demurred to the complaint on the grounds of (a) lack of jurisdiction, (6) res judicata and (c) prescription. The demurrer was overruled, whereupon the defendants filed an answer denying generally and specifically each and every allegation of the complaint, and also containing the following special defenses: (a) That the court did not have jurisdiction of the subject matter; (b) that the plaintiff's claim was res judicata; (e) that the action has prescribed; (d) that the deceased Jose Moreno Lahaba, as agent or representative of Francisco Cailejon Salinas, had accounted to his principal for the proceeds from the sale of the lands in question, resulting from said accounting a balance of P2,600 in favor of his principal; (e) that said amount was paid to the heirs of his principal; and (f) that Moreno Lahaba had spent P16,000 for clearing said lands and for the survey and registration thereof. The defendants prayed that they be absolved from the complaint with costs against the plaintiffs.

Upon the issue thus presented, the cause was brought on for trial. After hearing the evidence and on March 10, 1930, Simplicio del Rosario, judge, arrived at the conclusion that the plaintiffs were entitled to recover said sum of P30,000 from the defendants after deducting therefrom the expenses incurred by Moreno Lahaba for the survey and registration of said lands and also for attorney's fees and taxes, all amounting to P3,491.60; and rendered a judgment ordering the defendants to pay to the plaintiffs said sum of P30,000 after deducting therefrom said expenses of P3,491.60, with legal interest on the balance from the date of the commencement of this action. The

dispositive part of the decision reads as follows:

"SE CONBENA a los demandados al pago de la cantidad de treinta mil pesos (P30,000) a favor de los demandantes, de las que se deben descontar los gastos de medicion, titulacion, honorarios de abogado y pagos de amillaramiento que sumados ascienden a P3,491.60, mas los intereses legates de la cantidad remanente a contar desde la presentacion de la demanda en esta causa."

From that judgment both parties appealed.

The defendants-appellants make the following assignments of error:

- The court erred in not declaring that it had no jurisdiction over the subject matter of the litigation;
- The court erred in holding that the claim of P2,500 filed by the plaintiffs before the committee on claims does not constitute res judicata of this action;
- The court erred in holding that the present action has not prescribed;
- The court erred in finding that Jose Moreno Lahaba was indebted to plaintiffs for more than P2,500; and
- The court erred in overruling the demurrer, and in sentencing the defendants to pay to the plaintiffs the amount stated in the judgment.

The plaintiffs-appellants make the following assignments of error:

- The court erred in allowing in favor of the defendants the sum of P3,491.60, representing alleged expenses incurred by Moreno Lahaba in connection with the lands in question;
- The court erred in not ordering the defendants to pay legal interest on the amount of the judgment from the 24th day of November, 1918; and
- The court erred in not ordering the defendants to pay the costs and also damages by reason of their misappropriation of the proceeds of the sale of the lands.

A careful examination of the record shows that the following facts were established by a large preponderance of the evidence.

Francisco Callejon Salinas, the plaintiffs' predecessor, a former resident of the Philippine Islands, died in Spain on May 31, 1911. The record does not disclose the date when he left the Islands. In 1900 he appointed Teodosio Pintado y Fernandez as his attorney in fact to administer his properties here, with express authority to delegate his powers as such attorney, or to appoint his successor. On April 24, 1905, Teodosio Pintado y Fernandez appointed Jose Moreno Lahaba as attorney in fact or agent for Callejon Salinas.

Jose Moreno Lahaba administered the properties of Callejon Salinas and rendered accounts of his administration from April 24, 1905 up to the time of the death of his principal in 1911. His last letter to his principal is dated June 31st (30th), 1911. He died on May 2, 1920, but from July, 1911 up to the time of his death in 1920 he had not rendered any report of his administration in spite of inquiries made by the heirs of his principal, Francisco Callejon Salinas. Among the properties administered by him were included the two parcels of land in question.

Sometime before the death of Jose Moreno Lahaba, the Spanish Consul in the Philippine Islands, Vicente Palmaroli, at the request of the plaintiffs, as heirs of Francisco Callejon Salinas, made inquiries from Moreno Lahaba about the properties administered by him. Prior thereto said heirs had made direct inquiries from Moreno Lahaba but received no reply whatsoever. Moreno Lahaba told the Spanish Consul that he had only P2,500 in his possession belonging to his principal, which he was ready to deliver to the consul upon his production of written

authority from said heirs to receive the same in their behalf. Pending the receipt of said authority, Jose Moreno Lahaba died. So the consul presented a claim for P2,500 to the commissioners in the intestate proceedings of the deceased Moreno Lahaba. Said claim was allowed and paid and delivered to the said heirs of Francisco Callejon Salinas.

After the receipt of said amount the heirs of Callejon Salinas requested the Spanish Consul to make further inquiries about other properties under the administration of Moreno Lahaba. The Spanish Consul, with the assistance of attorney Eduardo Gutierrez Repide, found that on November 24, 1918, Moreno Lahaba had sold in the name of Francisco Callejon Salinas the two parcels of land in question to Tomas Ortiz Luis for P30,000 (Exhibit D). According to the deed of sale the whole price was paid in cash; but according to the evidence, only the sum of P5,000 was paid at the time of the sale, and the balance was paid in annual installments of P5,000. Five days after the sale, or on November 29, 1918, the vendee executed a mortgage on said lands in favor of Jose Moreno Lahaba (Exhibit H) for P25,000 to secure the unpaid balance of the price of said lands.

When Moreno Lahaba died on May 2, 1920, a balance of P20,000 of said mortgage was still unpaid. Said amount was entered in the inventory of his estate (Exhibit A) as conjugal property, and in the settlement of that estate it passed to the defendants as heirs of Moreno Lahaba. Said mortgage credit was paid to them long before the commencement of this action.

The defendants-appellants in their first assignment of error contend that the lower court did not have jurisdiction of the subject matter of this action. Their theory is that the plaintiffs' claim for P30,000 is a claim against the estate of Jose Moreno Lahaba, and said claim not having been presented before the commissioners of said estate, is now barred, and the lower court did not have jurisdiction to take cognizance of an action for the recovery of said amount.

This contention cannot be sustained. The amount of P30,000 which the plaintiffs are seeking to recover is not a claim against the estate of Moreno Lahaba. It is not an indebtedness of Moreno Lahaba or his estate. Said amount represents the price of trust properly administered by him, of which he and his heirs failed and refused to account. The only appropriate manner to recover said trust property, in view of the trustee's failure and refusal to account for it, is by an action in court, and the lower court acted correctly in taking jurisdiction of the case.

In their second assignment of error the defendants-appellants contend that the payment to the heirs of Callejon Salinas of the sum of P2,500 constitutes *res judicata*. It does constitute *res judicata* as to that amount only, but not as to the amount of P30,000 claimed in this action.

With reference to the third assignment of error of the defendants-appellants, to wit, that the lower court erred in holding that the present action has not prescribed, it may be said that there is absolutely no evidence in the record to show that the plaintiffs failed to demand from time to time from Moreno Lahaba and his heirs all the trust property in his or their possession belonging to Callejon Salinas. As a matter of fact, the plaintiffs, through the Spanish Consul General, time and again requested Moreno Lahaba and his heirs to return to them all of said trust property, but Moreno Lahaba and his heirs denied and concealed the existence of the P30,000 in question. As soon as the plaintiffs secured positive knowledge of the existence of said amount as trust property belonging to their predecessor, they commenced this action for the recovery thereof.

As a general rule, a trust estate is exempt from the operation of the statute of limitations. A trustee, however, may acquire the trust estate by prescription provided there is repudiation of the trust and this fact is known to the cestui que trust. The repudiation must be clear, open and unequivocal. In that case the statute will commence to run from and after said repudiation and the knowledge thereof by the cestui. Furthermore, prescription in order to be available as a defense, the trustee must prove that there was a direct repudiation of the trust and that the cestui que

trust or beneficiary had knowledge thereof. Such is the rule as found in Vol. 37, C. J., sees. 294, 295 and 296, pp. 923-926.

"SEC. 294. (2) Repudiation of Trust and Assertion of Adverse Claim—(a) In General.—In the case of an express trust limitations do not start to run in favor of the trustee until the trust is repudiated. A doctrine, the validity of which has been questioned, applying to all express trusts, regardless of the manner in which the trust was created, is that if the trustee openly repudiates the trust and asserts an adverse claim to the trust property, these facts being known to the cestui que trust, the statute begins to run in the trustee's favor, although not until then, and even though the trust is a resulting one, or a trust ex maleficio, * * *. And the general rule above stated applies in favor of persons who become trustees by construction of law, and in case of a voluntary constructive trust. As the statute of limitations is an affirmative defense to be alleged and proved, it is incumbent upon the trustee to show that there was a direct repudiation of the trust, and that the cestui que trust had knowledge thereof. Every intendment and presumption is against a repudiation.

"SEC. 295. (b) Necessity for Notice.—But a trustee's repudiation of an express trust, or a trust subject to the rule governing express trusts, and his assertion of an adverse interest, will not be sufficient to start the statute of limitations in motion, unless knowledge or notice of such repudiation and claim is brought home to the cestui que trust, and the statute begins to run when and only when the cestui que trust acquires the knowledge or receives the notice.

"SEC. 296. (c) Character and Circumstances of Repudiation and Notice.—To set the statute in motion the trustee's repudiation and adverse claim, whether by acts or words— repudiation may be proved by circumstances—must be clear, open and unequivocal, and must be so clearly and fully made known to the cestui que trust as to make it incumbent upon him to assert his equitable rights. Mere failure of the trustee to respond to repeated inquiries addressed to him by the cestui que trust is not enough. To constitute a repudiation there must be something said or done by the trustee in open contravention of the terms of the trust, and of such character that the relations of the parties will become and continue hostile."

Under the facts hereinbefore stated, the defense of prescription is not available to the defendants. There was no open, clear and unequivocal repudiation of the trust by Jose Moreno Lahaba. Neither was there any knowledge on the part of Callejon Salinas and his heirs of any such repudiation. On the contrary, there was concealment and misappropriation on the part of Moreno Lahaba of the property entrusted to his administration and care.

The last two assignments of error of the defendants-appellants are sufficiently answered by the foregoing arguments and the facts above stated.

With reference to the assignments of error of the plaintiffs-appellants, we are of the opinion that none of the alleged errors were committed by the lower court. The amount of P3,491.60 was correctly allowed by the lower court in favor of the defendants. It represented expenses actually incurred by Moreno Lahaba for the survey and registration of the lands in question and for taxes paid thereon.

The judgment appealed from is in accordance with the facts and the law, and the same should be and is hereby affirmed, with costs against the defendants-appellants. So ordered.

Avanceña, C. J., Malcolm, Villamor, Ostrand, 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.