

**MARIA C. VIUDA DE ECHEGOYEN, PLAINTIFF AND APPELLEE, VS.
JUAN M. COLLANTES Y JAVIER ET AL., DEFENDANTS AND
APPELLANTS.***G.R. No. 37648. October 05, 1933*

Ponente: IMPERIAL, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-37648/>**IMPERIAL, J.:**

The plaintiff herein in her capacity as administratrix of the intestate estate of her deceased husband, Rafael Echegoyen, brought this action in the Court of First Instance of Manila to foreclose the real estate mortgage constituted by the defendants herein to secure a loan obtained by them in the amount of P90,000 plus interest thereon at the rate of 10 per cent per annum. The defendants appealed from the judgment rendered in this case, the dispositive part of which reads as follows.

"Let judgment be entered herein sentencing the defendants to pay to the office of the clerk of this court or to the plaintiff, within the period of ninety (90) days after this judgment becomes final, the sum of P90,000 representing the amount loaned, together with interest thereon at 10 per cent per annum from October 15, 1931, until fully paid, plus the insurance premium of P527.64 with interest thereon at 10 per cent per annum from December 16, 1931, also until fully paid, with the costs of this suit. Attorney's fees equivalent to 10 per cent of the debt, that is P9,000, is claimed in the complaint, but, inasmuch as this court believes the amount in question to be very excessive in view of the nature of the action and the professional services rendered by the attorney in this case, the court sentences the defendants¹ herein to pay the sum of P1,000 only as attorney's fees, which sum shall be understood doubled in the event that the said defendants appeal from this judgment. It should be understood, further, that the mortgaged property shall be sold at public auction and the proceeds thereof applied to the payment of the aforesaid amounts. It is so ordered."

On April 15, 1930, Juan M. Collantes, Maria E. Collantes, Antonio Collantes, Felicidad P. Collantes and Paz P. Collantes, the last two represented by their guardian Juan M. Collantes, obtained a loan of P90,000 from Rafael Echegoyen, binding themselves to pay interest thereon at 10 per cent per annum, to insure the real properties for P30,000, to pay the corresponding premium, and to pay a penalty of 10 per cent in case the terms of the contract are violated and judicial action is brought by the creditor. To secure the loan in question, they mortgaged the two parcels of land together with the improvements thereon, described in the complaint and in the annex A. The mortgage thus constituted was duly recorded in the office of the register of deeds of Manila and noted on the transfer certificate of title No. 33163. Beginning October 15, 1931, the appellants defaulted in the payment of the interest stipulated as well as of the premium on the insurance of the buildings, amounting to P527.64 which was paid by the plaintiff.

The appellants appeared in court in their own behalf, without the aid of any counsel, and in their answer they alleged, by way of special defense, that the complaint was prematurely filed giving as their ground therefor that the interest in the payment of which they defaulted fell due only on December 20, 1931, and therefore, the right of action of the appellee has not yet commenced, inasmuch as the mortgage contract requires default in the payment

of the interest thereon for two consecutive months. The appellants did not appear during the trial of the case and their motion for the postponement thereof was denied by the court. Notwithstanding all the foregoing, the said appellants assign in this appeal seven (7) alleged errors from which it may be inferred that the only questions raised are: (1) That the mortgage was null and void on the ground that two minors who were not legally represented concurred therein, and (2) that the action brought by the appellee was premature.

When the mortgage in question was constituted, Felicidad P. Collantes and Paz P. Collantes were really minors, but they were represented by their brother and guardian Juan M. Collantes who signed for them. The assignment of error relative to the intervention of the two minors in question is unfounded: (a) Because it is raised for the first time in this appeal, and (b) because, in the absence of proof to the contrary, it should be presumed that the guardian who represented them was duly appointed and authorized to execute the mortgage in question.

The last assignment is, likewise, unfounded. According to the terms of the mortgage, the interest thereon, with the exception of that for the month of April, 1930, was due and payable in advance during the first five days of every calendar month. The interest due and unpaid corresponded to the period from October 15, to December 15, 1931, and the complaint was filed on December 17, 1931. It is evident, therefore, that the action was filed after the interest corresponding to two consecutive months had fallen due, and also after the appellants herein had failed to pay it.

The judgment appealed from is hereby affirmed, with double costs of this instance against the appellants on the ground that the appeal taken by them is frivolous. So ordered.

Malcolm, Villa-Real, Abad Santos, and Hull, 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.