

ENRIQUE F. SOMES, PLAINTIFF, VS. HON. A. S. CROSSFIELD ET AL., DEFENDANTS.

G.R. No. 4052. October 08, 1907

Ponente: JOHNSON, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-4052/>

JOHNSON, J.:

On the 25th day of May, 1907, the plaintiff presented a petition in this court praying for the writ of certiorari and an injunction.

On the same day the injunction was issued in accordance with the prayer of the petition after the plaintiff had given a bond, in the sum of P10,000, signed by Gabriel Schmidt and Fridolin Wiget, which was duly approved.

On the 8th day of June, 1907, the defendants, the Hon. A. S. Crossfield and Rafael Molina y Salvador, presented a motion for the dissolution of the said injunction. On the 18th day of June, 1907, upon a consideration of the motion for dissolution, the motion was granted and the injunction was dissolved.

On the 26th day of June, 1907, a demurrer was presented on behalf of the defendants, the Hon. A. S. Crossfield and Rafael Molina y Salvador, and the sheriff of the city of Manila, to the petition filed in said cause, alleging:

(1) That the acts of the Court of First Instance in said complaint, complained of, are in no respect in excess of the jurisdiction of said court; and

(2) That for the acts complained of there is a plain, speedy, and adequate remedy by appeal to this court by way of bill of exceptions.

After hearing the respective parties on the merits of the said demurrer, this court sustained the demurrer and gave the plaintiff five days within which to file an amended complaint.[1] The five days having expired and the plaintiff not having filed an amended complaint, the defendants presented a motion in this court praying that a commissioner be appointed to receive evidence in the Province of Albay as to the amount of damages sustained by the defendants by reason of the aforesaid injunction, or that the court take such other means as would be fit and convenient for ascertaining such damages, and that judgment for the same be included in the final judgment against the plaintiff, in accordance with section 170 of the Code of Procedure in Civil Actions, against the plaintiff and against the sureties on the bond given by the plaintiff to secure the issuance of the foregoing injunction; that final judgment in the above-entitled cause be suspended until the amount of damages so ascertained might be included therein.

On the 19th day of August, 1907, this court made an order requiring the defendants to serve a copy of the foregoing motion, asking for the appointment of a commissioner, upon the said bondsmen Schmidt and Wiget, and in accordance with said order the sheriff of the city of Manila served a copy of said motion upon the bondsmen on the 21st day of August, 1907.

The question presented by the record is, What is the procedure which should be adopted in view of the provisions

of section 170 above referred to, for the purpose of recovering damages, resulting from the allowance of an injunction, against the principal and the bondsmen in such injunction proceedings? Said section 170 provides:

"Upon final trial, the amount of damages to be awarded to the plaintiff or to the defendant, upon the obligations," given to secure an injunction, "shall be ascertained by the court trying the action, and judgment for the same shall be included in the final judgment and the judgment shall be both against the plaintiff and against the sureties upon any obligation given under the provisions of any of * * *" the provisions relating to the granting of an injunction.

In view of these provisions requiring that the damages shall be ascertained upon the final judgment, we are of the opinion, and so hold, that it is the duty of the parties seeking damages by reason of the granting of the injunction to file in the court in which the action is pending, specifications, in the nature of a complaint, setting forth the grounds upon which damages are claimed, serving copies of such specifications upon the parties against whom the damages are claimed, and asking that the court shall take such steps as may be advisable and necessary, by hearing the parties itself, or by appointing a commission for that purpose.

Therefore it is the judgment of this court that, if the defendants herein desire to recover damages against the plaintiff and his bondsmen, by reason of the said injunction, they must within ten days after receipt of this order file in this court specifications, setting forth the grounds upon which they expect to claim damages. So ordered.

Arellano, C. J., Torres, Willard, and Tracey, JJ., concur.

[1] *Somes vs. Crossfield et al.*, 8 Phil. Rep., 284.

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.