

ESTEBAN BERSABAL, PLAINTIFF AND APPELLANT, VS. ANTONIO BERNAL, DEFENDANT AND APPELLEE.*G.R. No. 4129. April 12, 1909*

Ponente: MAPA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-4129/>**MAPA, J.:**

These proceedings were brought to recover possession of a dwelling house which the plaintiff alleged to be his property and which he, in 1902, had loaned to the defendant, his grandson by marriage, at the request of the latter to gratuitously live therein with his family for the period of three years. The defendant in his answer said that the house was his lawful and exclusive property and that he had bought it from the plaintiff in 1902. The court rendered judgment and absolved the defendant from the complaint, and the plaintiff has appealed.

The lower court found as a fact, that the purchase by the defendant of the house in question had been sufficiently demonstrated and proved at the trial. This finding is strongly supported by the evidence presented by the defendant. Aside from the testimony of the latter in regard to the reality of said purchase for the price of 80 pesos, and evidenced by a private document signed by the plaintiff and the witnesses Saturnino Bello, Severo Bersabal, and the late Cipriano Brillantes, which document, the defendant alleged, was lost by him when crossing a river in 1905, an agreement was stipulated by the parties, during trial, of the following tenor:

"It is hereby agreed by counsel for both parties that the witnesses for the defendant, Jose Bello and Nemesio Peralta, respectively municipal president and secretary of Santa during the year 1903, made the statement to the effect that the plaintiff, in the presence of said witnesses, had said that it was true that he had sold the house to the defendant Antonio Bernal, and for this reason the registration thereof for the purposes of the land assessment was admitted in the name of Antonio Bernal. * * * That the witnesses Saturnino Bello and Severo Bersabal aver that they affixed their signatures to the document of sale of the house in question, which was executed in favor of the defendant, and that moreover, said document was signed by its maker, the plaintiff herein."

It appears from this that, besides the defendant, four witnesses have declared that the house in question was sold to the former, two having been present at the execution of the contract and having signed the document which evidenced it, and the other two being municipal officers in whose presence the plaintiff stated, for the purposes of the land assessment, that he had actually sold the house in question to the defendant.

The plaintiff brought witnesses to show that he had ceded the house to the defendant as a loan only, and said witnesses testified, or a stipulation was entered into by the parties that they would testify, to that effect. A review of their testimony fails to show that it preponderates over that of the witnesses for the defendant, and for this reason the finding of the lower court, as to the certainty of the sale alleged by the defendant as his defense, must be sustained.

The plaintiff assigns as error the fact that the lower court received oral testimony as to the contents of the document of said sale, inasmuch as it has not been shown nor has an effort been made to prove such loss or

disappearance. This is not true. The defendant testified that he lost said document in 1905 while crossing a river, when he dropped a bundle he was then carrying which contained the document in question and some of his clothing. Such statement, not having been contradicted nor in any manner disproven during the trial, was properly found by the lower court to be sufficient proof of the loss of, the document in question. Furthermore, as the plaintiff did not oppose or except to the giving of such oral testimony during the trial in the lower court, the objection that he now for the first time presents on appeal is absolutely out of place and therefore useless and improper.

The plaintiff also assigns as error the denial by the lower court of his motion for, new trial on the ground of the discovery of new evidence. This alleged newly discovered evidence consists of a certificate of the resolution passed by the municipal council of Santa, in its session held on December 15, 1905, to the effect that said council, at the request of the plaintiff, had stated (sic) to the latter that "the members thereof are satisfied that the house in question is his property and not the property of Antonio Bernal, his grandson."

The lower court acted very properly in denying said motion for a new trial because: (1) the statement made to the plaintiff by the municipal council of Santa as to whom they, or the members thereof, regarded as the true owner of the house in question, does not change nor could it in any manner affect the result of the case; and (2) because said statement having been requested and obtained by the plaintiff himself in December 1905, it is obvious that, when he filed his complaint in June, 1906, he should have had knowledge thereof and could very well have offered it at the trial, had he deemed it convenient, for it was in his power to secure all the certificates he wanted relating to the resolution of the said municipal council as to the said statement. Newly discovered evidence is a name that would wrongly be applied to evidence already known to the plaintiff and which, even before the bringing of this action, it was in his power to offer to the court.

The judgment appealed from is hereby affirmed with the costs of this instance against the appellant.

Arellano, C. J., Torres and Carson, 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.