

PEDRO REYES, PETITIONER, VS. JESUS M. PAZ AND THE JUDGE OF COURT OF FIRST INSTANCE OF CAMARINES SUR, RESPONDENTS.

G. R. No. 42137. August 29, 1934

Ponente: BUTTE, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-42137/>

BUTTE, J.:

This is a petition for annulment of a judgment based on section 513 of the Code of Civil Procedure.

It appears from the petition, and not controverted in the answer, that the respondent judge of the Court of First Instance of Camarines Sur, in civil case No. 5649 of said court, in which the respondent Jesus M. Paz was the plaintiff and the petitioner Pedro Reyes was the defendant on October 18, 1932, rendered a judgment by default against the defendant condemning the defendant to pay to the plaintiff the sum of P1,302.50 with legal interest; that the defendant in said case (petitioner here) entered no voluntary appearance in said case; that due summons was issued on June 20, 1932, requiring the defendant to appear and answer within twenty days after service of such summons. The deputy sheriff, Monico Imperial, made the following returns of service which was filed in said case:

"UNITED STATES OF AMERICA

"PHILIPPINE ISLANDS

"PROVINCE OF CAMARINES SUR

"I have this day served a copy of the within complaint and process upon Chino Yu Chan for the absence of the defendant Chino Pedro Reyes.

(Sgd.)

"MONICO IMPERIAL

"Deputy Sheriff"

It is manifest at a glance that this return shows no legal service of summons in compliance with section 396, paragraph 6, of the Code of Civil Procedure. Therefore, the court acquired no jurisdiction over the defendant and the judgment rendered against the defendant in said civil case No. 5649 is void.

The defendant Reyes was apparently absent in China when said judgment was rendered and learned of it for the first time on or about June 23, 1934. Upon the allegation of his petition that a writ of execution on said judgment was about to be issued, this court granted a temporary injunction restraining the respondents from enforcing said judgment until the further order of this court.

Section 513 of the Code of Civil Procedure provides in part:

"* * * The court shall summarily on notice to both parties hear such petition, upon oral or written testimony as it shall direct, and the judgment shall be set aside and a trial upon the merits granted, upon such terms as may be just, if the facts set forth in the complaint are found to be true, otherwise the complaint shall be dismissed with costs."

In view of the complete record which we have before us as set out in the petition and in the answer with the accompanying exhibits, we have deemed it unnecessary to grant the motion of the petitioner that a commissioner be appointed and testimony taken. The judgment complained of being void is hereby set aside, vacated and held for naught, and it is directed that a trial upon the merits of said cause be had when said court shall have acquired jurisdiction over the defendant either by his voluntary appearance or by compulsory process lawfully served as shown by a proper return, with costs in this instance against the respondent Jesus M. Paz.

Malcolm, Villa-Real, Imperial, and Goddard, 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.