

## **FRANCISCA ROXAS AND EUSTAQUIO SALVADOR, PLAINTIFFS AND APPELLEES, VS. TIRSO CRUZ, SILVERIO CRUZ AND SIMEON CRUZ, DEFENDANTS AND APPELLANTS.**

*G. R. No. 44234. August 30, 1937*

Ponente: AVANCENA, C.J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-44234/>

---

### **AVANCENA, C.J.:**

This action was brought by the plaintiffs for the recovery of a certain sum of money from the defendants.

The record shows that on August 4, 1933, the sheriff of Manila certified that he had delivered copies of the summons and of the complaint to each of the defendants, by leaving them at their usual place of residence in the City of Manila and in the hands of Josefa Cruz, resident in the same house, who is the wife of the defendant Tirso Cruz and sister-in-law of the other defendants Silvino Cruz and Simeon Cruz, and of sufficient discretion to receive the copies in question. On the 23d of said month, G. T. Antaran appeared in the case as attorney for the defendants. On the 2d of the following September, Attorney Antaran filed an answer to the complaint in the name of said defendants. On October 20, 1933, there was filed in court a pleading signed by E. del Rosario, attorney for the plaintiffs, by G. T. Antaran, attorney for the defendants, and by the defendant Tirso Cruz, stating that both parties, assisted by their respective attorneys, agreed to have judgment rendered in said case, ordering the defendants to pay jointly and severally to the plaintiff the sum of P3,000, with interest thereon at 6 per cent per annum. On October 23, 1933, the court rendered judgment therein in accordance with the terms of the foregoing agreement. On October 22, 1934, the court, upon petition of the plaintiffs and after notifying the attorney for the defendants, issued a writ of execution of said judgment. On November 17, 1934, the sheriff of the City of Manila sold the mortgaged property at public auction, adjudicating it to the same plaintiff Francisca Roxas for the price of P1,500. On December 1, 1934, the court, upon petition of the attorney for the plaintiffs, confirmed this sale and ordered an alias execution for the sum of P1,684.86 representing the balance of the amount of the judgment not covered by the price obtained at the public auction sale. In said month of December, the sheriff issued the corresponding certificate of sale, to the plaintiff Francisca Roxas.

On February 5, 1935, the defendants Silvino Cruz and Simeon Cruz filed a petition in court, praying for the annulment of the judgment rendered in said case and of the execution thereof in so far as it affected them, alleging that they were not summoned, that they had no knowledge of this case, and that they did not authorize Attorney Antaran to represent them, much less, to enter into an agreement relative to the subject matter of the litigation. Said petition was denied by the court in its resolution of May 6, 1935, from which this appeal was taken.

It appears from the foregoing that after judgment had been rendered on October 20, 1933, no appeal was taken therefrom, no new trial was sought for the annulment thereof, and the remedy provided by section 113 of the Code of Civil Procedure was not availed of. The petition denied in the appealed resolution was filed only after the lapse of sixteen months.

According to the record, the judgment appears upon its face to be legal, rendered with jurisdiction, and final in

character. Whether or not it is null and void for lack of jurisdiction over the parties, is a question of evidence and the validity thereof cannot be attacked upon this ground by means of the proceeding followed (*Banco Espanol-Filipino vs. Palanoa*, 37 Phil., 921).

Without prejudice to the action which the defendants Silvino Cruz and Simeon Cruz may bring for the purpose of attacking directly the validity of said judgment in another proceeding, the resolution appealed from is affirmed, with costs to the appellants. So ordered.

Villa-Real, Abad Santos, Imperial, Diaz, Laurel, and Concepcion, 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.