

JOSEFA RIZAL MERCADO ET AL., PLAINTIFFS AND APPELLANTS, VS. ALFREDO HIDALGO RIZAL, DEFENDANT AND APPELLEE.

G.R. No. 45534. April 27, 1939

Ponente: AVANCEÑA, C.J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-45534/>

AVANCEÑA, C.J.:

The properties left by the deceased Paciano Rizal y Mercado belonged, in usufruct, to nine heirs and, in naked ownership, to seven others. The plaintiffs are two of the nine usufructuaries and the defendant is one of the naked owners.

In 1932, 1933 and 1934, the amount of P6,503.80 was paid for the tax of these lands. Of this amount the naked owners made the plaintiffs pay P1,445.29, or P722.64 each, representing one-ninth of the taxes paid during the aforesaid years. As the plaintiffs were not agreeable to this payment, because they were mere usufructuaries, and they contend that the duty devolves upon the naked owners, this amount was deducted from the products corresponding to them and applied to the payment of land tax.

The plaintiffs alleged that, the naked owners being the ones under a duty to pay the tax for the lands, they should recover the amount which was deducted from their share of the fruits and applied, against their will, to the payment of the tax. The naked owners, with the exception of the defendant, agreed with this contention and paid to each of the plaintiffs the sum of P206.47, which is one-seventh of the P1,445.29 deducted from the products of the land corresponding to the plaintiffs.

The present action was brought to compel the defendant to pay also to the plaintiffs the amount of P206.47.

A demurrer was interposed to the complaint for failure to allege facts sufficient to constitute a cause of action. The court sustained the demurrer on the ground that the action is premature under article 505 of the Civil Code providing:

"Any taxes which may be imposed directly upon the capital, during the usufruct, shall be chargeable to the owner.

"If paid by the latter, the usufructuary shall pay him the proper interest on any sums he may have disbursed by reason thereof; if the usufructuary should advance the amounts of such taxes he shall recover them upon the expiration of the usufruct."

This ruling of the trial court is erroneous.

Pursuant to the aforequoted provision, the tax directly burdens the capital, that is, the real value of the property and should be paid by the owner (*Ong Lengco vs. Monroy*, G. R. No. 19411, July 18, 1923). It is contended, however, that under the second paragraph of the aforequoted article, if the usufructuary should pay the tax, he would be entitled to reimbursement for the amount thereof only upon the expiration of the usufruct, and the usufruct being still afoot, it is premature for the plaintiffs, as usufructuaries who advanced the payment of the tax, to bring the action for the recovery of what they paid. There is, however, no basis for this reasoning. The plaintiffs

did not pay the tax. They objected to this payment. They did not consent to the deduction thereof from their share in the products, and much less to the application thereof to this payment which they believe they are not bound to make. In fact they did not make the payment; the naked owners were the ones who made it without their consent and with money belonging to them as their share of the fruits coming to them in their capacity as usufructuaries.

The plaintiffs, in claiming the amount of P206.47, do not rely on paragraph 2 of article 505 of the Civil Code above quoted, for having paid the tax on the lands, but on the first paragraph thereof because it is their contention that, as usufructuaries, they are not the ones called upon to make this payment.

Reversing the resolutions of the trial court excepted to, the demurrer interposed to the complaint is overruled, and it is ordered that the case be remanded to the court of origin so that it may act in accordance with this decision and go forward with the case until it is finally decided, without special pronouncement as to the costs in this instance. So ordered.

Villa-Real, Imperial, Diaz, Concepcion, and Moran, 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.