

**THE DIRECTOR OF LANDS, APPLICANT; MARCELA GUANZON,
PETITIONER AND APPELLANT, VS. PHILIPPINE NATIONAL BANK,
BANK OF THE PHILIPPINE ISLANDS, MARIA GONZAGA YULO, TITO
SILVERIO, NAT...**

G.R. No. 46035. April 25, 1939

Ponente: VILLA-REAL, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-46035/>

VILLA-REAL, J.:

On September 10, 1936, Marcela Guanzon filed with the Court of First Instance of Occidental Negros a motion in which, upon the facts therein alleged, she prayed that all the decrees subsequent to the original titles or decrees be ordered cancelled, keeping intact, however, the decrees of registration of the lots of the Hinigaran Cadastre enumerated in her motion and adjudicated to her; and that in their place new titles to the lots specified in the third paragraph of her aforesaid motion be issued and that all the new decrees issued in favor of the respondents, their managers or legal representatives, lessees, etc., known as transfer certificates of title Nos. 1106, etc., and specified in the 11th paragraph of her motion be declared null and void and of no effect whatever, and that the decrees of registration of the lots of the Hinigaran Cadastre, case No. 12, known as lots Nos. 1655, etc., described and specified in the 3d paragraph of her motion and adjudicated to the petitioner Marcela Guanzon be declared and held valid and in full force and effect. Petitioner's motion was accompanied by a notice addressed to the respondents to the effect that on October 3, 1936, at 8 a.m., she would appear before the Court of First Instance of Occidental Negros for the hearing and decision of her motion.

On September 23, 1936, petitioner, through her attorneys, filed a motion dated September 22, 1936, praying for the postponement of the hearing of her petition from September 10, 1936, to October 17, of the same year, at 8 a. m.

Copy of this motion for postponement was sent to each one of the respondents.

On September 26, 1936, the respondent Philippine National Bank filed a motion dated September 24, 1936, praying, in turn, for the transfer of the hearing which was set for October 3, 1936, at 8 a. m., to October 26, 1936, with notice to the attorneys of the petitioner and the other respondents.

On October 19, 1936, the case was submitted to Branch I of the Court of First Instance of Occidental Negros, then presided by the Hon. Judge Jose Lopez Vito, who, by order of October 22, 1936, ordered the transfer of the petition of Marcela Guanzon of September 10, 1936, to Branch II of the same court.

The case having been submitted on November 21, 1936, to Branch II which was presided by the Honorable Judge Sotero Rodas, a resolution was rendered on November 24, 1936, in which after considering the motion of Marcela Guanzon and the answer thereto of the Philippine National Bank without any evidence having been adduced in support of said motion and basing its action solely on the facts alleged under oath in the motion, which were denied by the Philippine National Bank in its sworn answer, the court denied the motion on the ground that it was

improper and unfounded.

The attorneys for the petitioner Marcela Guanzon having been notified of the resolution denying their motion of September 10, 1936, filed a motion for reconsideration on the ground that when the case was called for hearing on November 21, 1936, they were unable to appear due to professional work of an urgent nature in Manila.

The respondent Philippine National Bank opposed the motion for reconsideration in a pleading of December 9, 1935.

On December 10, 1936, the same petitioner Marcela Guanzon filed another motion for reconsideration of the aforesaid resolution, alleging that her petition not having been set for hearing on September 10, 1936, neither she nor her attorneys was able to appear for the purpose of adducing their evidence in support thereof and praying that said petition be set for hearing on January 20, 1937. This second motion was accompanied by an affidavit of merits.

The Philippine National Bank having replied to the second motion for reconsideration filed by Marcela Guanzon, the said judge, Hon. Sotero Rodas, denied the same by order of December 18, 1938.

From the order denying her second motion for reconsideration, petitioner Marcela Guanzon appeals to this court, assigning as alleged errors of the court a quo the fact that it decided her petition of September 10, 1936, without giving her an opportunity to be heard and to adduce evidence in support thereof, and the fact that it denied her motion for reconsideration and new trial.

The gross anomaly which has been committed in the disposition of the incidental petition filed by the petitioner and appellant Marcela Guanzon is self-evident. In said petition she prayed that the same be set for hearing on October 3, 1936, at 8 a. m. On September 23, 1936, her attorneys filed a motion dated September 22, 1936, praying that the hearing of their petition be postponed to October 17, 1936, at 8 a. m. On September 26, 1936, the respondent and appellee Philippine National Bank filed in turn a motion dated September 24, 1936, praying that the hearing of the petition be postponed to October 26, 1936. The petition and other motions for postponement of hearing of the petitioner and the respondent Philippine National Bank, respectively, were submitted on October 19, 1936, to Branch I of the Court of First Instance of Occidental Negros, and the judge who presided the same, Hon. Jose Lopez Vito, having inhibited himself because he acted as attorney of the petitioner Marcela Guanzon in a case bearing on the same lots that are subject of the petition, issued an order dated October 22, 1936, directing the clerk of court to transfer said petition of Marcela Guanzon dated September 10, 1936, to Branch II of the same court. On November 21, 1936, a date which was not asked for by either party, nor designated by the judge on previous notice, said petition of Marcela Guanzon was submitted to the Hon. Sotero Rodas, the judge who presided the aforesaid Branch II, and on November 24, 1936, without previous designation for the hearing and without notice to the parties, he rendered the resolution appealed from, basing the same solely on the facts alleged in the sworn petition of the petitioner Marcela Guanzon and in the answer, which was also sworn, of the Philippine National Bank. Undoubtedly the petitioner and appellant Marcela Guanzon has been denied the right to appear, to be heard and to submit evidence in support of her petition without fault or negligence on her part. The oath appended to a motion does not stand for the absolute, but only the presumed, truth of the facts therein alleged, to permit their consideration and compel the opposite party to answer them. The evidence which the parties introduce at the trial is what determines the existence of that truth and the decision of the court should be based thereon. In the present case the lower court confined itself to considering the facts alleged in the petition and in the answer, both made under oath, which facts are not sufficient for a final and definite decision, unless the parties have submitted them for its judgment. The petitioner Marcela Guanzon accompanied her motion for reconsideration with an affidavit of merits which, if proved at the trial, would conclusively entitle her to the

granting of her prayer. (Sec. 113, Code of Civil Procedure,)

In view of the foregoing, the order appealed from is reversed and the case is ordered returned to the Court of First Instance of Occidental Negros for further proceedings, with costs against the respondent and appellee Philippine National Bank. So ordered.

Avanceña, C. J., Imperial, Diaz, Laurel, 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.