

THE GOVERNMENT OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. LA ASOCIACION COOPERATIVA DE CREDITO AGRICOLA DE PARAOMA DE MINALBAC, CAMARINES SUR, FRANCISCO BOTOR, PEDRO...

G.R. No. 46438. November 07, 1939

Ponente: DIAZ, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-46438/>

DIAZ, J.:

As the question involved in this case directly affects the jurisdiction of the Court of First Instance of Camarines Sur which issued the orders from which the plaintiff and appellee has appealed to the Court of Appeals, the latter court certified and elevated said case to this court pursuant to the provisions of section 145-H of the Administrative Code, as amended by Commonwealth Act No. 3.

The question of jurisdiction raised is whether the Court of First Instance of Camarines Sur had power to issue the judgment rendered against two defendants who had been neither summoned nor heard at any time, and whether it could order the execution of the judgment thus rendered after the lapse of more than five years, without the plaintiff having first applied for the remedy provided in section 447 of Act No. 190 to enforce said judgment.

The facts of the case, not disputed by the parties, are the following: Shortly before the month of October, 1919, the defendants Francisco Botor, Pedro Arazas, Teodoro Florin, Martin Barcenas, and Nemesio David organized the association known as "Asociacion Cooperativa de Credito Agricola de Paraoma de Minalbac", Camarines Sur, for the purpose of producing a bigger crop of rice and corn, which was the object sought to be attained by the approval of Act No. 2818 on March 4, of said year. Immediately thereafter, the aforementioned organizers, taking advantage of the benefits of the law just named, applied for and obtained from the Government a loan of P6,000 under the promise and obligation to pay it within five years, plus the stipulated interest of 6 per cent per annum. Six years passed, but neither the "Asociacion Cooperativa de Credito Agricola de Paraoma de Minalbac" nor its directors or officers, namely, the other defendants, paid the loan or its interest, or any part of both. This led to the decision of the Government to institute, as it did on December 4, 1926, against each and all of the defendants, without excluding the "Asociacion Cooperativa de Credito Agricola de Paraoma de Minalbac", civil case No. 4099 of said court by filing the corresponding complaint. All the defendants were notified of the complaint, except Nemesio David and Martin Barcenas who had died two years before. Since the defendants who had been summoned did not appear to answer the complaint, they were declared in default; and on January 27, 1927, judgment was rendered against all, without excluding the deceased Martin Barcenas and Nemesio David who, as has been said, had not been summoned, the court sentencing them to pay, jointly and severally, to the plaintiff the sum of P6,000 claimed in the complaint, plus interest thereon at the rate of 6 per cent per annum. Since then no other step was taken by the plaintiff until March 3, 1933, when the provincial fiscal of Camarines Sur, on behalf of the plaintiff, asked for a writ of execution of the judgment. The corresponding writ was issued on March 18, 1933, although more than six years had elapsed. However, nothing was done until January 15, of the following year, when another writ of execution was asked for. By virtue of this last writ the properties of Martin Barcenas

and Nemesio David, the two defendants who had not been summoned, which were already in the possession of their respective heirs, were attached. More than one year thereafter, or on August 27, 1935, the provincial fiscal, on behalf of the plaintiff, asked the court to order the sheriff to deliver the attached properties to its representative Felipe M. Fahatin. Of this petition of the plaintiff as well as the judgment and the writs of execution already mentioned, neither the defendants Martin Barcenas and Nemesio David, who had died years before the commencement of the case and had not been summoned, nor their heirs were notified. Notwithstanding that fact, the court ordered the sheriff to deliver the aforesaid properties to Felipe M. Fahatin, for which reason said officer attempted to eject the heirs from said properties in order to deliver them to Fahatin. Only then did the said heirs of the deceased defendants learn for the first time that judgment had been rendered against the latter. To straighten things out and to defend their rights, the heirs, invoking the remedy provided in section 113 of the Code of Civil Procedure, filed a petition to set aside the judgment rendered against their predecessors in interest, alleging that the properties from which they were sought to be ejected were already theirs; that the court never acquired jurisdiction or authority over the persons of their predecessors in interest referred to; and that the writ of execution by virtue of which the properties in question were attached and sold, was issued more than seven years after the aforementioned judgment had been rendered. The lower court denied the petition in an order dated December 16, 1935 on the ground that they had no legal personality to appear in the case for the reason that they had been neither plaintiffs nor defendants therein, and that said case has been definitely closed. It reserved to them, however, the right to ask, in a separate case, for the annulment of the sale of said properties.

The appellants, namely, Inocentes David, Sofia David, Francisca Osana Vda. de Barcenas, Guillermo Barcenas, Eulalio Barcenas, Casiano Barcenas, and Etico Barcenas, the first two being the heirs of Nemesio David, and the others of Martin Barcenas, maintain that the Court of First Instance of Camarines Sur, in issuing the orders under discussion, committed the five errors which they assign in their brief. All these alleged errors jointly raise the question already set forth, that is, whether the Court had jurisdiction and power to render the judgment against the two deceased defendants who had never been summoned; and whether it could order the execution of said judgment after the lapse of more than six years.

It is now well-settled in this jurisdiction that for a tribunal to have power to bind a person, by judgment, in ordinary personal actions as the one in question, it is necessary that such a person be a party in the case in which the judgment is rendered, and in order that he may be such party, it is likewise necessary that he appear therein either voluntarily or by summons. If summoned, he may either appear to answer the complaint or be declared in default with all the consequent risks of either an unfavorable or favorable judgment as the evidence may warrant. In the case at bar, the defendants Martin Barcenas and Nemesio David of whom the appellants are heirs, never appeared, for they had not even been summoned since they had died two years before. Accordingly, the court never acquired jurisdiction over any of them; wherefore, the judgment it rendered against them was and is without any legal effect and, therefore, void. (*Gomez vs. Concepcion*, 47 Phil., 717; *Echevarria vda. de Zubeldia vs. Parsons Hardware Co. Inc.*, 51 Phil., 980.) To hold otherwise would be to violate openly the constitutional precept which requires that every person shall be entitled to due process of law. (*El Banco Espanol-Filipino vs. Palanca*, 37 Phil., 921.)

It is likewise well-settled that a valid judgment cannot have effect and loses what it has had after the lapse of five years from the time it was rendered, if after that time and before the lapse of ten years, necessary steps are not taken to enforce it by bringing the proper action for that purpose in accordance with the procedure prescribed in section 447, in connection with section 43, of Act No. 190. The judgment in this case while it was in the lower court, was rendered on January 27, 1927, and the writ of execution and other subsequent proceedings took place on March 18, 1933 and other following dates, it being, of course, clear that between the two dates first mentioned exactly six years, one month and eleven days had elapsed.

To meet the reasons above set forth, the Solicitor-General, who represents the plaintiff in this instance, contends that, as the appellants have not been parties in this case because they were neither plaintiffs nor defendants in the lower court, they lack the personality to intervene therein, and much less to bring it on appeal to this court; and that, consequently, although due process of law might not have been observed with respect to the deceased defendants, Nemesio David and Martin Barcenas, who had not been summoned, and although the court really lacked jurisdiction and power to issue the writ of execution on account of the lapse of more than five years after the judgment was rendered, their appeal should not be considered, because if they had any right of action, it should have been exercised or they should exercise it in a separate case, as the lower court has suggested in one of its appealed orders.

We do not believe we would duly comply with the law if we were to fix our attention on technicalities of the nature of that relied upon by plaintiff to sustain the lower court. Said technicality would not lead to anything practical, except to delay the administration of justice and encourage the multiplicity of suits. Practical justice demands that wherever it may appear that the law has not been followed, and a party more or less interested in the case calls the attention of the court thereto, it becomes the latter's duty to act in conformity with the law to give fulfillment to its just provisions. At all events the appellants possess so much interest in this case that if they were to fold their arms, they would be deprived, without due process of law, of a thing belonging to them. We believe that the one indicated is the best course to follow, specially because under section 2 of Act No. 190, the provisions thereof shall be liberally construed, in order to promote its object and assist the parties in obtaining speedy justice, and prevent at the same time unnecessary delays and multiplicity of suits, as long as these may be avoided.

In view of all the foregoing, the orders appealed from are reversed insofar as they affect the deceased defendants Nemesio David and Martin Barcenas, who had not been summoned, and the sale as well as the attachments carried out by the sheriff are set aside, without any pronouncement as to costs. So ordered.

Avanceña, C. J., Villa-Real, Imperial, 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.