

ROBERTO MORENO, PLAINTIFF AND APPELLANT VS. AGO CHI (ALIAS GO CAY CHI), DEFENDANT AND APPELLEE.

G.R. No. 4680. January 09, 1909

Ponente: JOHNSON, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-4680/>

JOHNSON, J.:

The facts presented in this case seem to be as follows:

In the month of May, 1904, a complaint was presented against the defendant charging him with the crime of assassination. He was arrested and tried for said crime in the Court of First Instance in the city of Manila. The plaintiff and appellant was appointed by the court to defend the defendant de oficio during the progress of the trial. The defendant at the close of the trial was found guilty of the crime charged and was sentenced with the penalty of death. From that sentence the defendant appealed to the Supreme Court. That court, after a consideration of the case, on the 30th day of April, 1906, modified the finding of the lower court and sentenced the defendant to be imprisoned for a period of twenty years of reclusion temporal[1] The defendant was represented in the Supreme Court by another lawyer.

At the time the defendant was arrested under the complaint presented in the Court of First Instance, the officer making the arrest found upon his person about P700, which said officer took possession of and deposited the same with the clerk of the court.

On the 30th day of October, 1906, the plaintiff presented a petition in the Court of First Instance setting up that his services in defending the defendant de oficio in said court were reasonably worth the sum of P600, and prayed the court to make an order directing the clerk to turn over to him (the plaintiff and appellant), of the money which had been taken from the defendant, the sum of P600. No action was taken upon this petition of the plaintiff and appellant until the 3d day of January, 1907, when the plaintiff and appellant filed with the Court of First Instance a copy of an execution which had been issued by Jose M. Quintero, justice of the peace of Manila, from which copy of the writ of execution it appears that said justice had rendered a judgment against the defendant and in favor of the plaintiff, on the 27th day of December, 1906, for the sum of P550 and costs. At the time of this judgment by the justice of the peace it is to be supposed, at least, that the defendant was in Bilibid Prison, serving the sentence of the Supreme Court, and the record does not disclose whether or not he was present during the trial or had received any notice of the action pending against him in said court of the justice of the peace.

On the same day (the 3d day of January, 1907) the plaintiff and appellant presented another petition to the Court of First Instance, praying that the court order the clerk to pay to him, out of the money in his hands, the sum of P559.24, to apply on said judgment obtained before the justice of the peace. On the 4th day of January, 1907, the judge of the said Court of First Instance fixed the 5th day of January for the hearing on the said petition and ordered that the defendant be brought into court for this purpose of being heard upon said motion. The record discloses that the defendant was brought into court on the day fixed for the hearing and then and there stated to the court that he was willing that a portion of the money originally taken from him by the officer making the

arrest might be applied upon the execution, but that he wished some of it reserved for his own use.

After hearing the respective parties, the judge of the lower court ordered that the clerk pay to the plaintiff and appellant, out of said money, the sum of P50 and further ordered that the balance should be retained by the clerk for the benefit of the defendant.

From this order of the lower court the plaintiff appealed.

The plaintiff and appellant makes two assignments of error as follows:

First. That the court erred in arbitrarily fixing the value of the services rendered by him in the trial of said cause at the sum of P50, and in not ordering the clerk to pay to him the sum of P550.

Second. That the lower court erred in not ordering the clerk of the court to pay to the plaintiff or to the sheriff of the said court, a sum equal to the amount mentioned in said execution.

The fact is not denied that the money which the plaintiff and appellant is attempting to secure was taken from the defendant at the time of his arrest and was by such officer turned over to the clerk of the court.

An officer making an arrest may take from the person arrested any money or property found upon his person which was used in the commission of the crime or was the fruit of the crime or which might furnish the prisoner with the means of committing violence or of escaping, or which may be used as evidence in the trial of the cause; but there is very serious doubt whether an officer making an arrest has the right to take from the defendant any property found upon his person, unless for some of the reasons just mentioned. (Rex vs. Burgis, 7 Carrington and Payne, English Reports, 488; Houghton vs. Bachman, 47 Barber, N. Y., 388; 1st Bishop's Criminal Procedure, sees. 210-212.)

Unless some of these special reasons exist the officer should not deprive the defendant of the possession of his property. (Rex vs. Johnson, 11 Modern Reports, English, 62; Rex vs. Jones, 6 Carrington and Payne, 343.)

To deprive the defendant of his money or property under other circumstances than those mentioned above is to deprive him, perhaps, of the lawful means of defense. (Rex vs. Jones, *supra*; Clark's Criminal Procedure, 71; 1st Bishop's Criminal Procedure, sees. 210-212.)

But what becomes of the property of the person arrested when the officer making the arrest has taken possession of the same and after the termination of the trial it appears conclusively that such property was in no way connected with the commission of the offense for which the defendant was arrested? If the property was in no way connected with the commission of the offense, at the termination of the trial it is the duty of the court to order the officer in possession of the same to return it to the defendant. The custody of the officer of such property in no way deprives the defendant of his right therein and such custody should be considered as the custody of the defendant under these circumstances.

But the question arises, may third persons, creditor's for example of the defendant, obtain a lien or claim upon such property while it is in the possession of such officer? We are of the opinion, and so hold, that third persons, creditors, etc., can not acquire any claim or lien upon such property while thus in the hands of the officer, which they might not acquire had the property remained in the custody of the defendant himself. To hold otherwise would lead to unlawful and forcible searches of the person under cover of criminal process as an aid to civil actions for the collection of debts. When it is fully shown that the property so taken was in no way connected with the crime charged, the court should not permit any advantage to be taken of the defendant, by reason of the fact that he had been deprived of his property by the officer and against his will. (Commercial Exchange Bank vs. McLeod, 65 Iowa, 665; 54 American Reports, 36; 1 Archibald Criminal Pleading and Procedure, 34, 35;

Wharton-s Criminal Pleading and Practice, sec, 61.)

It is therefore, the duty of the judge, under facts such as existed in this case, at the close of the trial to order such property returned to the defendant.

The judgment of the lower court is therefore hereby reversed and it is hereby ordered that the cause be remanded to the lower court with direction that an order be issued returning to the defendant the money or property which was taken from his person at the time of his arrest. So ordered.

Arellano, C. J., Torres and Mapa, JJ., concur.

Carson and Tracey, JJ., concur in the result.

Willard, J., dissents.

[1]6 Phil. Rep., 227.

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.