

**HAMMON H. BUCK, PETITIONER VS. M. L. DE LA ROSA, ETC., ET AL.,
RESPONDENTS.***G.R. No. 48071. September 03, 1941*

Ponente: OZAETA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-48071/>**OZAETA, J.:**

The petitioner alleges that he is the registered owner of certain parcels of land situated in the barrio of Birinayan, municipality of Talisay, Province of Batangas, and covered by original certificates of title Nos. 28658 and 28659. On and between December 7, 1938 and February 10, 1939, the respondents (except Judge De la Rosa) filed petitions for review of the decrees issued in favor of the petitioner on the said parcels of land in Land Registration Cases Nos. 803 and 939 of the Court of First Instance of Batangas. Notice of lis pendens was recorded at the instance of said respondents.

Alleging that the petitions for review presented by the respondents were malicious and false and that the notice of lis pendens has deprived him of the right to dispose of said properties, the petitioner filed a complaint for damages against the said respondents, which was docketed as civil case No. 3553 of the Court of First Instance of Batangas on or about April 4, 1939. After demurrers to the complaint had been overruled and answers had been filed, the respondent judge, on November 19, 1940, cited the parties to argue the case before him on December 2, 1940, for the purpose of determining why the action should not be dismissed for being premature. After oral and written arguments had been adduced upon that question, the respondent judge, on December 19, 1940, issued an order dismissing the case without special pronouncement as to costs, on the ground that the action was premature, it appearing that the petitions for review, upon the result of which said action for damages depended, had not yet been terminated. Thereupon the petitioner instituted the present certiorari proceedings in this Court to annul that order of dismissal.

The court is of the opinion and so holds that certiorari does not lie in this case, for the following reasons:

First. The respondent judge acted within his jurisdiction and did not commit a grave abuse of discretion in dismissing the action for damages, it appearing that the same was based on the contention that defendants' petitions for review were false and malicious, and that said petitions were still pending trial.

Second. In any event, as counsel for petitioner admitted during the oral argument, the order of dismissal was appealable; and although an appeal is not as speedy as the extraordinary remedy of certiorari, the latter cannot be availed of to supplant the former.

Third. Counsel suggested in the oral argument that the respondent judge, instead of dismissing said action for damages, should have held it in abeyance pending the termination of the petitions for review. That suggestion is in itself an implied admission that the action was prematurely commenced. But altho the respondent judge was undoubtedly vested with discretion to hold said action in abeyance pending the termination of the proceedings for the reopening of the decrees in the land registration cases, we do not think that, in refusing to do so, he committed such a grave abuse of discretion as to justify this Court's interposition thru the extraordinary writ of certiorari, especially if we take into consideration that the new Rules of Court do not look

with favor upon the clogging of court's dockets with dormant cases. (Vide Rule 31). Moreover, it was plaintiff's own fault that he pulled the trigger too soon.

The petition is dismissed, with costs against the petitioner. So ordered.

Avancena, C. J., Diaz, Moron, and Horrilleno, JJ., concur.

Abad Santos, J., did not take part.

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.