

**NIDA GABA, RODOLFO GABA, NATY A. UY AND MARIANO TAN,
PETITIONERS, VS. JUDGE JOSE P. CASTRO, COURT OF FIRST
INSTANCE OF RIZAL, BRANCH IX, QUEZON CITY; NILO CABANG,
DEPUTY SHERIFF...**

G.R. No. 56171. January 31, 1983

Ponente: AQUINO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-56171/>

AQUINO, J.:

In this special civil action of certiorari, the Gaba and Uy spouses seek to annul a judgment by default and the writ of execution on the ground that they and their counsel did not receive the notice of pre-trial and that the clerk of their lawyer did not give him copies of the decision and orders received by registered mail.

Pedro F. Martinez sued Nida Gaba, Naty A. Uy and Lilian C. Gabriel and their respective husbands for the recovery of the sums of P20,000.00 and P3,000 plus damages.

Nida Gaba and the Uy spouses answered the complaint through lawyer Tirso L. Manguiat. Although duly served with the summons, the Gabriel spouses did not answer the complaint.

Nida Gaba and the Uy spouses pleaded the defense that they borrowed from Martinez only one amount of P10,000 and not P20,000 and that all the interests due were deducted in advance.

The trial court in its order of June 18, 1980 set the case for pre-trial on July 16, 1980 at eight-thirty in the morning and issued this directive:

"Send notice of pre-trial to the parties through or care of their respective counsel who are directed to inform their clients of the date, time and place of the pre-trial and that said clients may either appear in person or deliver to said counsel a written authority to represent the party with power to compromise the case with the warning that the party who fails to do so may be non-suited or declared in default." (p. 18, Record.)

Four copies of that order, which were sent by registered mail to Manguiat, were received on July 8, 1980 by his clerk, Alfredo Chico. At the pre-trial on July 16, where only plaintiff Martinez and his counsel appeared, Gaba and the Uy spouses were declared in default for their non-appearance. Lilian C. Gabriel was declared in default for her failure to answer the complaint. The clerk of court was commissioned to hear the evidence.

A copy of the trial court's order of July 16, 1980, declaring the defendants in default, was received by registered mail on August 1, 1980 by Manguiat's other clerk, Chona Seminiano (back of p. 21, Record). Note that in another case plaintiff Martinez served on Chona on November 24, 1980 a copy of an urgent motion intended for Manguiat (p. 96, Rollo).

In its decision dated July 31, 1980 based on the evidence presented ex parte by Martinez, the trial court ordered Nida Gaba and the Uy spouses to pay him the separate sums of P20,000 and P3,000, both sums with twelve percent interest a year from the filing of the complaint.

A copy of that decision was received on August 22, 1980 by registered mail by Manguiat's clerk, Alfredo Chico. On September 8, 1980, Martinez filed a motion for execution with notice to Manguiat by registered mail.

On that same date, September 8, Manguiat filed an urgent motion to set aside the order of default with the advertence that the clerk of court should submit the motion for the immediate consideration by the trial court and, alternatively, that it be set for hearing with notice to the parties.

Defendant Manny Tan, husband of Naty A. Uy, verified that motion. He alleged that defendants' failure to appear in court was due to fraud or excusable neglect since no notice of the trial was sent to them and their counsel. A copy of that motion was furnished Martinez's counsel by registered mail.

The trial court in its order of November 12, 1980 denied the motion for lack of merit. A copy of that order was received on November 27, 1980 by registered mail by Chico, Manguiat's clerk. A writ of execution was issued on November 21, 1980.

Several months later, or on February 11, 1981, the Gaba, Uy and Gabriel spouses filed the herein petition for certiorari through another lawyer, Camilo R. Flores. Attached to the petition was the affidavit of Manguiat, a resident of 2401 Singalong Street, Manila (no longer holding office at the City Court Compound). The Gabriel spouses, who are abroad, were later dropped as petitioners.

Manguiat alleged that Alfredo Chico, who received copies of the notice of pre-trial and decision, had ceased to be his clerk in December, 1979, that his other clerk was Chona M. Seminiano and that Chico did not turn over to him the said papers. Manguiat did not attach any affidavit of Chona.

We gave due course to the petition because our first impression was that the petitioners were denied due process of law due to the irresponsibility of their lawyer and because of their defense that they were unjustifiably being made to pay twice the sum of P10,000 and the interests on the loans.

A more intensive study of the record, including the expediente of the trial court, leads to the conclusion that this is a case where the petitioners or the judgment debtors are bound by the mistakes and omissions of their counsel and that they were not oppressively denied their day in court.

Manguiat's claim that he was deceived by his alleged former clerk (Chico) cannot be taken seriously in the light of the incontestable fact that although his other clerk, Chona Seminiano, received on August 1, 1980 a copy of the order of default, yet it was only on September 8, or thirty-eight days later, when Manguiat filed a motion to set it aside. He was not conscientious in attending to his clients' interests.

As to petitioners' claim that the amount due from them was unduly inflated by the trial court, it should be observed that petitioners Mariano Tan and Nida Gaba in a letter to respondent deputy sheriff dated January 6, 1981 asked for a period of fifteen days within which to satisfy the judgment (p. 95, Rollo). They did not contest the validity of the judgment and the levy.

Since the said judgment had long become final and executory when the petitioners filed on February 11, 1981 their petition for certiorari and as there is no clear showing that they were deprived of due process or that the said judgment was procured by means of extrinsic or collateral fraud, it can no longer be set aside. The trial court acted within its jurisdiction and did not commit any grave abuse of discretion in rendering and enforcing that judgment.

With reference to the alleged irregularities in the execution of the judgment, particularly with respect to Rodolfo Gaba, the same should be first raised in the trial court. The record does not show that the lower court's attention was called to the alleged improper implementation of the writ of execution.

WHEREFORE, the petition is dismissed with costs against the petitioners. The writ of preliminary injunction is

cancelled.

SO ORDERED.

Makasiar (Chairman), Concepcion Jr., Guerrero, Abad Santos, De Castro and Escolin, 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.