

MARCELINO TIBURCIO, PETITIONER, VS. HON. JOSE P. CASTRO, AS PRESIDING JUDGE, COURT OF FIRST INSTANCE OF RIZAL, BRANCH IX, QUEZON CITY; TRINIDAD KATIGBAK, AND THE COMMISSIONER, L...

G.R. No. 58997. May 28, 1988

Ponente: GUTIERREZ, JR., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-58997/>

GUTIERREZ, JR., J.:

This is a petition for review on certiorari of the following orders of the then Court of First Instance of Rizal, Branch IX, Quezon City: 1) Order dated July 30, 1980 denying petitioner's motion to present evidence on the Opposition; (2) Order dated December 19, 1980 denying petitioner's motion for reconsideration and new trial; and (3) Order dated April 29, 1981 denying petitioner's motion for reconsideration of the December 19, 1980 order.

On March 7, 1967, herein private respondent Trinidad Katigbak filed before the above court on application for registration and confirmation of title over a parcel of land known as Lot 2 of LRC-SW0-9564 and/or SW0-04-000250 located in Diliman, Quezon City.

The application was published in the June 17 and 24, 1968 issues of the Official Gazette.

On June 4, 1970, the lower court, with then presiding Judge Lorenzo Relova, issued an order of general default against the whole world, with the exception of the University of the Philippines; the People's Homesite and Housing Corporation; the Director of Lands; the heirs of Marcos Estanislao and heirs of Luan Josep and heirs of Laureano Estanislao.

On March 6, 1980, the lower court presided by herein respondent Judge Jose P. Castro issued an order submitting the application for decision and ordering the parties to submit their respective memoranda.

Petitioner Marcelino Tiburcio filed a motion to present evidence supporting his opposition.

The motion was denied in one of the questioned orders on the ground that Tiburcio's opposition was filed long after the issuance of the order of general default dated June 4, 1970.

Thereafter, the lower court rendered a decision on August 29, 1980 declaring that applicant Katigbak has registerable title over the parcel of land described as Lot 2 of the LRC SWO-9564 and/or SW0-04-000250, with an area of 1,025,010 square meters, more or less. It also declared substituted parties as purchasers/assignee over the portions of the property specified in the deeds of conveyance as attached to their respective motions.

On January 19, 1981, the lower court issued an order approving partition plan of the respective shares of the applicant and the substituted parties.

Meantime, on September 22, 1980, the petitioner filed a motion for reconsideration and new trial praying that the decision dated August 29, 1980 be set aside and that a new trial be granted to afford him a chance to present

evidence.

This motion was denied on the ground that the petitioner "has not done anything to seek relief from said order (of general default) during the period of ten (10) years that this case has been pending."

The subsequent motion for reconsideration of this December 9, 1980 order was denied for being pro-forma.

A motion for clarification of the orders dated July 20, 1980 December 19, 1980, and April 29, 1981 was then filed.

After some five months had elapsed without the respondent court's action on his clarificatory motion, the petitioner filed on December 7, 1981 this present petition for review on certiorari, prohibition with preliminary injunction, or restraining order.

The petitioner contends that the denial by the respondent court of his motion to present evidence on the opposition and later of his Motion for a new trial unduly deprived him of his right to be heard.

The contention is devoid of merit.

Under the Rules of Court, there are several remedies available to a defaulted party namely:

"a)

The defendant in default may at any time after discovery thereof and before judgment, file a motion, under oath, to set aside the order of default on the ground that his failure to answer was due to fraud, accident, mistake or excusable neglect, and that he has meritorious defenses; (Sec. 3, Rule 18)

"b)

If the judgment has already been rendered when the defendant discovered the default, but before the same has become final and executory, he may file a motion for new trial under Section 1(a) of Rule 37;

"c)

If the defendant discovered the default after the judgment has become final and executory, he may file a petition for relief under Section 2 of Rule 38; and

"d)

He may also appeal from the judgment rendered against him as contrary to the evidence or to the law, even if no petition to set aside the order of default has been presented by him. (Sec. 2, Rule 41)" (*Lina v. Court of Appeals*, 135 SCRA 637, 642).

The petitioner did not avail of any of these remedies. After the general order of default dated June 4, 1970, nothing was heard from the petitioner for nearly ten years until he filed his motion to present evidence in April 5, 1980.

Rule 18, Sec. 2 of the Rules of Court provides that:

"Section 2. Effect of order of default. - Except as provided in section 9 of Rule 13, a party declared in default shall not be entitled to notice of subsequent proceedings nor to take part in the trial."

Meanwhile, Rule 13, Sec. 9 states:

"Section 9. Service upon party in default. No service of papers other than substantially amended or supplemental pleadings final orders or judgments shall be necessary on a party in default unless he files a motion to set aside the order of default in which event he shall be entitled to notice of all further proceedings regardless of whether the order of default is set aside or not."

The foregoing provisions clearly show that the petitioner has lost his standing in court in the instant case and, therefore, is no longer allowed to adduce evidence nor take part in the trial.

We agree with the lower court which observed in its order dated December 19, 1980 that:

"A thorough examination of the records of these proceedings has revealed that the movant as alleged heir of Eladio Tiburcio, is included in the order of general default issued by this Court on June 4, 1970, and has not done anything to seek relief from said order during the period of ten (10) years that this case has been pending in this Court.

"To allow movant to present evidence at this stage of the proceedings will run counter to the mandate of Section 2 and 3 of the Rules of Court.

"Notwithstanding that herein movant appeared in court and participated in the proceedings, he did not gain legal personality, considering that said appearance was made after the order of general default had been entered and no formal motion to lift the order of default, under the grounds specified by law was ever filed by him." (Rollo, p. 52)

The petitioner questions orders which had long become final and executory. As such, they may no longer be challenged.

Moreover, the case at bar is barred under the rule on res judicata.

As noted by the Solicitor General:

"In the subsequent two motions for reconsideration against the decision dated August 29, 1980, neither did petitioner raise reasonable grounds of fraud, mistake or excusable negligence to set aside the default order, but merely emphasized his claim of ownership over the disputed property.

xxx xxx xxx

"Petitioner, in instituting the instant case, proceeds under his impression that review of the orders and decisions of the respondent judge may be filed at any time.

"The default orders and the decision finding private respondent Katigbak having a registerable title over the property covered by SW0-04-000250 had long been issued in 1980. The orders denying petitioner's motions for reconsideration against the aforestated decision were issued in 1981 such that they have become final and executory. The instant petition, as we earlier adverted, comes 5 years too late, and thirty years late from the time this Honorable Court found that he has no legal nor equitable claim over the property decreed under the name of the PHHC and the University of the Philippines.

The instant suit is barred under the rule on res judicata.

"Petitioner, in those cases mentioned had previously sought the review of findings of the trial courts rejecting proprietary rights over the property covered by the Spanish possessory titles issued on March 27, 1877. He presently relies on the same document to assert his title over the property covered by the survey plan of private respondent Trinidad Katigbak.

"Petitioner is barred from interjecting again ownership based on the said Spanish title over the disputed

property as it was found in *Marcelino Tiburcio v. PHHC* (G.R. No. L-13479, October 31, 1959); *Galvez v. Tuazon* (S.C. G.R. No. L-15644, February 29, 1964); *PHHC v. Hon. Mencias* (S.C. G.R. No. L-24114, August 16, 1967) that such document cannot confer title since the property at issue had long been decreed and titled to the University of the Philippines and the PHHC under the Torrens System. In *Katigbak v. IAC* (S.C. G.R. No. 67414), this Honorable Court had declared the University of the Philippines the titled owner of the property now in dispute in the present case.

"Thus, under the rule on *res judicata*, there can be no relitigation on the same subject matter even in another certiorari proceeding of a question when it was already litigated (*Revised Rules of Court*, Rule 39, Sec. 49(b); *PCIB v. Pleider*, 65 SCRA 13; *Tenoro v. Labo* 67 SCRA 248; *Comilang v. Court of Appeals*, 65 SCRA 69; *Tan v. Valdchueza*, 66 SCRA 61; *Director of Lands v. CA* 104 SCRA 426; *Gamboa v. CA*, 108 SCRA 1), and the same principle applies despite the inclusion of additional parties in a subsequent litigation (*Mallari v. CA*, 105 SCRA 430), the reason being that once the judgment has become final, it is the law of the case (*Denove v. Cartano*, 103 SCRA 377)." (*Rollo*, pp. 215-217)

The award by respondent Judge Jose P. Castro of the 1,025,010 square meters of prime property is favor of Trinidad Katigbak has been set aside by the Court of Appeals and the Supreme Court is the main case. The titles of the PHHC and the University of the Philippines to the disputed property have been sustained in other petitions elevated to this Court. In three earlier cases, *Marcelino Tiburcio et al., v. PHHC*, (G.R. No. L-13479, October 31, 1959); *Galvez, et al. v. Tuazon et al.*, (G.R. No. L-15644, February 29, 1964); and *PHHC v. Hon. Mencias*, (G.R. No. L-24144, August 16, 1967) - the petitioner's claims to 430 hectares of land in Quezon City, including the property covered by the Katigbak petition, were categorically rejected. This petition is manifestly without merit.

WHEREFORE, the instant petition is hereby DISMISSED for lack of merit.

SO ORDERED.

Fernan, (Chairman), Feliciano, Bidin, and Cortes, 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.