

**HILARIO TANATO, PLAINTIFF AND APPELLANT, VS. GAUDENCIO SANIEL AND DIONISIO JAKOSALEM, AS SHERIFF OF CEBU, DEFENDANTS AND APPELLEES.**

*G.R. No. 9576. September 28, 1917*

Ponente: JOHNSON, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-9576/>

---

**JOHNSON, J.:**

The purpose of the present action is to recover the possession, together with damages, of a certain piece or parcel of land, together with the buildings thereon, which piece or parcel of land is particularly described in paragraph 3 of the complaint.

The facts out of which the action grew may be stated as follows: That sometime prior to the month of June, 1910, a judgment for a sum of money was rendered by the judge of the Court of First Instance of the Province of Cebu against Patricio Niera and in favor of Gonzalo Villareal; that an execution was issued upon said judgment, and the land in question was attached and sold at public auction on the 15th day of June, 1910, by the sheriff, to the defendant Gaudencio Sanial; that later, on the 2d day of August, 1911, the said sheriff executed and delivered to the said Gaudencio Sanial a sheriff's deed to the land in question; that at the time of the attachment the plaintiff herein notified the sheriff that the said property belonged to him. The plaintiff contends that he became the owner of said parcel of land by a purchase of the same from the said Patricio Niera for the sum of P200 in the month of November, 1909. The defendants answered the petition of the plaintiff and alleged that said sale or transfer of the land in question by Patricio Niera to the plaintiff herein was a false and simulated sale.

Upon the issue thus presented the lower court found as a fact that the alleged sale by Patricio Niera to Hilario Tanato was a feigned, false and simulated sale; that said sale was fictitious; that the parcel of land, at the time of the execution was still the property of Patricio Niera, and rendered a judgment absolving the defendants from all liability under the complaint, with costs against the plaintiff. From that judgment the plaintiff appealed.

In his first assignment of error the plaintiff alleges that the lower court committed an error in deciding that the said sale by Patricio Niera to the plaintiff herein was fictitious and of no value. The facts which induced the lower court to believe that said sale was fictitious were that the vendor Patricio Niera continued to occupy the same; that he continued to occupy the same from the date of the sale until after the time of the attachment without paying rent therefor to his vendee; that the evidence of said sale (Exhibit No. 1) was a private document and had not been recorded in the registry of property. Patricio Niera admitted that he continued to occupy the house and land in question without paying rent therefor until after the sheriff had attached the same under said execution; that soon thereafter he abandoned the house and land and ceased to occupy it. The proof further shows that, after the sale under said execution and after the expiration of the time within which to redeem the same, a sheriff's deed was issued to the purchaser Gaudencio Sanial; that when he (Gaudencio Sanial) took possession of said property under his deed, it was vacant and unoccupied. It will be remembered that the attachment of the property in question was made in the month of June, 1910; that a final sheriff's deed was issued to the purchaser of the land in question on

the 2d day of August, 1911; that no protest or objection whatever was made by the plaintiff herein on the date of the attachment nor thereafter, even after the final deed was issued to the purchaser, until the 31st day of August, 1911, when the present action was brought.

After a careful examination of the evidence, we are fully persuaded that the same preponderates in favor of the finding of the lower court. The judgment appealed from is, therefore, hereby affirmed, with costs. So ordered.

Arellano, C. J., Carson, Araullo, Street, and Malcolm, 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.