

DIOSDADO C. TY, PLAINTIFF AND APPELLANT, VS. FILIPINAS CIA. DE SEGUROS, ET AL., DEFENDANTS AND APPELLEES.*G.R. Nos. 15928-33. September 30, 1960*

Ponente: GUITERREZ DAVID, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-nos-15928-33/>**GUITERREZ DAVID, J.:**

This is an appeal from an order of the Court of First Instance of Manila dismissing plaintiff's complaints in Civil Cases No's. 26343, 26344, 26404, 26405, 26406 and 26442 "without prejudice to the filing of other complaints, should the plaintiff so desire."

In said civil cases, which were originally filed before the Municipal Court of Manila, plaintiff, a mechanic-operator, seeks to recover the amount of P650.00, for Injuries to his left hand causing temporary total disability, from six different insurance companies with which he had entered into contracts of insurance against death or disability caused by accidental means. N Judgment having been rendered in plaintiff's faVor, all six defendants appealed to the Court of First Instance of Manila, the complaint against defendant Filipinas Cia. de Seguros being reproduced in Civil Case No. 26343 (G. R. No. L-15928), that against People's Surety & Ins. Co., Inc., in Civil Case No. 26344 (G. R. No. L-15929), that against South Sea Surety & Ins. Co., Inc., in Civil Case No. 26404 (G. R. No. L-15930), that against the Philippine Guaranty Co., Inc., in Civil Case No. 26405 (G. R. No. L-15931), that against Universal Insurance & Indemnity Co., in Civil Case No. 26406 (G. R. No. L-15932) and that against Plaridel Surety & Ins. Co., Inc., in Civil Case No. 26442 (G. R. No. L-15933).

As the cases involve a common question of fact and of law, they were assigned to one Judge for joint trial. On July 31, 1956, the day set for hearing, plaintiff testified and was cross-examined by counsel for defendants. However, the cross-examination was not finished and continuance of hearing was set for August 30, 1956. In the morning of that day, when the cases were called for hearing, defendants thru counsel manifested that they were ready for trial. But as plaintiff had not yet arrived and was, according to his counsel, "probably just delayed," the lower court informed said counsel that the cases would be called for hearing again 'in 10:30 of the same morning. As plaintiff was still absent when the cases were called at said hour, the lower court on that same day issued an order dismissing plaintiff's complaints but without prejudice, as already stated, to the filing of other complaints should plaintiff so desire.

On September 26, 1956, plaintiff's counsel filed a motion praying that the order of dismissal be set aside, it being alleged that plaintiff's failure to appear at the hearing was due to sickness as he was then suffering from influenza with acute bronchitis and his doctor advised him to rest in bed for about six days. Although plaintiff's affidavit of merit and the sworn statement of his attending physician were attached to the motion in support thereof, the same was denied. Whereupon, plaintiff appealed to the Court of Appeals alleging as his lone assignment of error that "the lower court erred in dismissing the cases notwithstanding the accidental or excusable absence of the plaintiff at the trial." As the question involved is purely legal, the appeal was certified to this Court. .

After going over the records, we do not think the motion to set aside the order of dismissal was properly

overruled. Said motion, which Van only be considered as a petition for relief under Rule 38, was admittedly filed within the reglementary period prescribed and was accompanied by an affidavit of merit which tends to show that plaintiff has a good and substantial cause of action. Indeed, the judgment rendered by the inferior court, was in his favor. It is, likewise, undisputed that plaintiff, as stated by him in his affidavit, was at the time of the hearing, sick and confined in bed. He further explained that he wanted to send his wife to inform his counsel, but he was afraid she would only get lost as she was not familiar with the places in Manila much less his counsel's office. These circumstances, in our opinion, constitute sufficient ground to warrant the reopening of the cases, if for no other purpose than to give plaintiff a chance to submit evidence in support of his claims. A slight delay in the adjudication of the cases occasioned by a reasonably justified continuance of the hearing thereof to afford plaintiff the opportunity to present his evidence would certainly not materially prejudice the defendant insurance companies. On the contrary, it is in consonance with fairplay and justice.

Moreover, we really see no practical advantage either to the parties or to the court for the cases to be dismissed only to allow plaintiff, to file anew the same complaints "should he so desire." A continuance of the hearing would have been more in accord or consistent with justice, especially since the plaintiff is a poor man and is prosecuting these cases as a pauper.

In view of the foregoing, the order of dismissal complained of is hereby set aside and the records of the cases remanded to the trial court for further proceedings. So ordered without costs.

Paras, C. J., Bengzon, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., Barrera, Paredes, and Dizon, 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.