

RECENT DECISIONS

Digest of Current Cases

APPEAL.—*Timoteo Taroma, Petitioner vs. The Honorable Roman A. Cruz, Judge of the Court of First Instance of Ilocos Norte, and German Galinato, Respondents, G. R. No. 46248, May 27, 1939.* On April 5, 1938, petitioner received a copy of the decision rendered by the respondent Judge in a case for the registration of land; he presented his motion for new trial as a formal requisite to perfect his appeal on May 3, 1938, and his bill of exceptions on May 21, 1938, 3 days after having been notified of the order denying said motion for new trial. Respondent Judge refused to receive the bill of exceptions on the ground that petitioner presented it outside of the prescribed period of 30 days fixed by Sec. 14 of Act No. 496, as amended by Sec. 26, of Act No. 2347. Hence, petitioner prays for a writ of mandamus to compel respondent Judge to admit said bill of exceptions. Petitioner contends that he perfected his appeal within the period of 30 days, making the following computation: from April 5 to May 3 excluding both dates, 27 days have elapsed; from May 3, when he presented his motion for new trial, to May 18, when he was notified of the order denying the same, including both dates, 16 days have elapsed, which period should not be counted against him, in accordance with the established rule sanctioned several times by the Supreme Court; and from May 18 to May 21, excluding the first day, in accordance with Sec. 4 of Act No. 190, not more than 3 days have elapsed. Respondent Judge contends that the bill of exceptions

in question was presented by petitioner 31 days after he promulgated the decision and he makes the following computation: from April 5 to May 3, excluding the first day and including the last, there are 28 days; and from the 18th to the 21st, also excluding the first day and including the last, there are 3 days; thus, excluding the time he had in his hands the motion for new trial until petitioner was notified of the order denying the same, or from the 4th to the 18th, 31 days have elapsed, or one day more than the 30 days fixed by law. *Held*: That the writ of mandamus will issue inasmuch as petitioner presented his bill of exceptions exactly at the thirtieth day. From April 5 to May 21, according to both theories, excluding the first day and including the last, there are 46 days; deducting from these 46 days, the 16 days that the respondent Judge employed in considering the motion for new trial, there are not more than 30 days. (Per Diaz, J.; Avanceña, C. J., Imperial, Laurel, JJ., concurring; Villa-Real, Concepcion, Moran, JJ., dissenting).—*Briefed by GUILLERMO P. VILLASOR.*

ARBITRARY DETENTION.—*The People of the Philippines, Plaintiff-Appellee vs. Vicente P. Ancheta, Defendant-Appellant, G. R. No. 46250, July 26, 1939.* Appeal from a conviction for arbitrary detention of a girl who was arrested under orders of accused in his capacity as a lieutenant in the Constabulary forces, members of which are authorized by law to arrest without judicial orders, not

only when offenses are committed in their presence or are about to be committed, but also when they have a reasonable belief or suspicion that an offense has been committed, and was committed precisely by the persons arrested. Ancheta arrested the girl on the ground that he believed her to be involved in a conspiracy with her brothers and a justice of the peace to kill him for having broken amorous relations with her. *Held*: It is not expected of a policeman or of an official of the Constabulary forces to act like a judicial officer, for peace officers act according to the circumstances of the case to avoid the escape of the criminal. It is sufficient that such officer had reasonable belief in the existence of an act in which are present the characteristics of an offense. Accused acquitted. (Per Curiam. Sgd., Avanceña, C. J., Villa-real, Imperial, Diaz, Concepcion, Moran, JJ.; Laurel, J., did not take part.)—*Briefed by FRINE C. ASPRER.*

CIVIL PROCEDURE. — *Ernesto Aldeguer, Plaintiff-Appellee vs. Martin Gemelo and Vicente Gemelo, Defendants-Appellants, G. R. No 46045, July 31, 1939.* At bar is an action filed in the Court of First Instance of Iloilo to recover upon a judgment rendered by the Court of First Instance of Occidental Negros. The suit is instituted under section 447 of the Code of Civil Procedure as the judgment on which recovery is sought was rendered eight years ago against Vicente Gemelo, one of the present defendants. From the decision of the lower court in favor of the plaintiff, the defendants appealed contending that the trial court had no jurisdiction as (1) the action to recover on a judgment must, following the American doctrine on *scire facias*, be brought in the court rendering such judgment, and (2) no judgment on which recovery can be made has ever been adjudged against the other de-

fendant Martin Gemelo. Judgment is modified by absolving Martin Gemelo. *Held*: Under section 377 of the Code of Civil Procedure, judgment on damages, as the one in question, are personal in character, so action for their recovery is transitory and can be brought in the province where either the plaintiff or the defendant resides, at the election of the plaintiff. Thus the case at bar which is an original and independent action can be instituted in the court rendering the judgment sought to be enforced, or in any other competent court. This is entirely different from the auxiliary writ of *scire facias*, which being a mere incident of the original action must be filed in the same court of the original action. The owner of a judgment may use his judgment as a cause of action and bring suit thereon in the same court or any court of competent jurisdiction but the action must be against the judgment-defendant as such action cannot be maintained against one not a party to nor bound by the judgment. (Per Moran, J.; Avanceña, C. J., Villa-Real, Diaz, Concepcion, JJ., concurring).—*Briefed by BIENVENIDO C. AMBION.*

CONSTITUTIONAL LAW.—*The People of the Philippines, Plaintiff-Appellee vs. Jacob Rosenthal and Nicasio Osmeña, Defendants-Appellants, G. R. No. 46076 and 46077, June 12, 1939.* Defendants were convicted of the violation of the Blue Sky Law (Act No. 2581) because they negotiated for the sale of shares in the form of speculative securities without first obtaining the corresponding license from the Insular Treasurer as required by law. It is contended by the defendants that Act No. 2581 is unconstitutional. *Held*: That the Act is constitutional. (1) The Act furnishes a sufficient standard for the Insular Treasurer to follow in reaching a decision regard-

ing the issuance or cancellation of a permit. The permit to be issued under the Act must recite that the person, partnership, association or corporation applying therefore has complied with the provisions of this Act, and this requirement construed in relation to the other provisions of the law, means that a permit shall be issued by the Insular Treasurer when the provisions of Act No. 2581 have been complied with. Upon the other hand, the authority of the Insular Treasurer to cancel a permit is expressly conditioned upon a finding that such cancellation is in the public interest. Public interest in this case is a sufficient standard to guide the Insular Treasurer in reaching a decision on a matter pertaining to the issuance or cancellation of permits. Moreover, Act No. 2581 allows an appeal from the decision of the Insular Treasurer to the Secretary of Finance. Hence, it cannot be contended that the Insular Treasurer cannot act and decide without any restraining influence. (2) A state may direct its law against what it deems the evil as it actually exists without covering the whole field of possible abuses, and it may do so none the less that the forbidden act does not differ in kind from those that are allowed. (3) An act will be declared void on the ground of vagueness and uncertainty only upon a showing that the defect is such that the courts are unable to determine, with any reasonable degree of certainty, what the legislature intended. An act will not be declared inoperative on the ground that it furnishes no adequate means to secure the purpose for which it is passed, if men of common sense and reason can devise and provide the means, and all the instrumentalities necessary for its execution are within the reach of those intrusted therewith. (Per Laurel, J.; Avanceña, C. J., Villa-Real, Imperial, Diaz, Concepcion, Moran, JJ., concurring).—*Briefed by* GELASIO M. IBARRA.

CUSTOMS DUTIES.—*The Government of the Philippines, Plaintiff-Appellee vs. Luis Gaskell, Defendant-Appellant, G. R. No. 45201, June 30, 1939.* The defendant, in order to avoid the payment of certain duties, misrepresented the value of the goods consigned to him. The misrepresentation having been discovered, an action was brought against him to recover the uncollected duties. He denied his liability therefor on the ground that he was not the owner of the said goods. *Held:* The consignee of imported goods is deemed the owner for the purpose of the collection of the duties on the goods consigned. Section 15 of the Philippine Tariff Act of 1909 provides, "That all articles, goods, wares, or merchandise imported into the Philippines shall, for the purpose of this Act, be deemed and held to be the property of the person to whom the same may be consigned; but the holder of any bill of lading, drawn to order and indorsed by the consignor, shall be deemed the consignee thereof; and in case of the abandonment of any articles, goods, or merchandise to the underwriters, the latter may be recognized as the consignee." (Per Imperial, J.; four Justices concurring).—*Briefed by* LUIS J. GONZAGA.

HOMESTEAD.—*Rizalina de la Rosa et al, Plaintiff-Appellees vs. Maximiana Edralin et al, Defendant-Appellants, G. R. No. 43585, May 27, 1939.* This is an application for homestead under Act 2874 filed by Bonifacio de la Rosa. Pending consideration of his application, he died leaving his surviving spouse by the second marriage and his children by the first and second marriages respectively. In 1930, the Director of Lands, acting by virtue of Act 2874, issued the corresponding Certificate of Title in favor of Maximiana Edralin, the surviving spouse. Said Cer-

tificate of Title was duly annotated in the Registry of Titles on November 22, 1930. Subsequently, the children of the deceased filed a motion before the court praying that the Certificate of Title issued in favor of Maximiana Edralin be cancelled and another be directed to be issued in their favor. The court, applying Act 3517 which took effect on February 4, 1929, decided in favor of the children of the deceased and declared the Certificate of Title issued in favor of the surviving spouse null and void. Hence this appeal. The question involved is which law should apply in the determination of the case: Act 2874 which gives to the widow the right to have the title issued in her favor, or Act 2517 amendatory to Act 2874 which gives to the heirs in law the right to have the titled issued in their favor. *Held*: Act 3517 has no retroactive effect. The mere fact that at the time when the Certificate of Title was issued, Act 3517 was in force does not in any manner affect whatever rights the surviving spouse has acquired under Act 2874. Judgment reversed, declaring valid the certificate of title issued in favor of Maximiana Edralin. (Per *Avanceña C. J.*; *Villa-Real*; *Imperial*; *Diaz*; *Laurel*, *Concepcion*, *Moran, J.J.*, concurring.)—*Briefed by AMORSOLO V. MENDOZA.*

PAROLE. — *Eufemio P. Tesoro, Petitioner-Appellant vs. The Director of Prisons, Respondent-Appellee, G. R. No. 64437, May 23, 1939.* On October 10, 1934, the petitioner was convicted of the crime of falsification of a public document and sentenced to an indeterminate penalty which was to expire on October 28, 1937. On November 14, 1935, he was granted a parole by the Governor-General among the conditions of which were: (1) That he will not commit any other crime and will conduct himself in an orderly manner. (2) That he will re-

port, during the period of his parole to the Executive Secretary of the Board of Indeterminate Sentence, during the first year, once a month, and thereafter, once every three months; and (3) Should any of the conditions stated be violated, the sentence imposed shall again be in full force and effect. On December 3, 1937, the petitioner was charged with the crime of adultery but the complaint was dismissed for non-appearance of the complainant. In February, 1938, the same complainant lodged a complaint with the Board of Indeterminate Sentence, and upon the same facts supporting the criminal action aforementioned, charged the petitioner with the violation of the conditions of his parole. After due investigation by and upon the recommendation of the board, the President of the Philippines issued an order revoking the parole and ordering the arrest and reincarceration of the petitioner. The petitioner was arrested and recommitted to the custody of the Director of Prisons. Thereupon, he sued for a writ of habeas corpus against said director and, upon denial thereof by the trial court, took the present appeal. Petitioner contends: (1) That par. 6, sec. 11, Art. VII of the Constitution, in omitting to specify anything about parole, has impliedly repealed section 64—(1) of the Administrative Code which confers upon the Chief Executive the power to grant and revoke paroles; (2) That the Board of Indeterminate Sentence has no legal authority to investigate his conduct; (3) That a judicial pronouncement to the effect that he has committed a crime is necessary before he can be properly adjudged as having violated his conditional parole; (4) That the findings of the President regarding the violation of his parole are not true; and (5) That upon the expiration of his maximum term of imprisonment his conditional parole expired and there-

after his liberty became absolute. *Held:* (1) That the power to pardon given the President by the Constitution, "upon such conditions and with such restrictions and limitations as he may deem proper to impose," includes the power to grant and revoke paroles; (2) That by accepting the parole the petitioner agreed to place himself under the supervision of the board; (3) That under the terms of his parole, the mere commission, not his conviction by the court, of any other crime, was all that was necessary in order that the petitioner may be deemed to have violated his parole; (4) That the determination of the violation of the conditional parole rests exclusively in the sound judgment of the Chief Executive and the courts will not interfere, by way of review, with any of his findings; and (5) That when a conditional parole is violated, the prisoner is placed in the same state in which he was at the time the parole was granted. Judgment affirmed. (Per Moran, J.; Avanceña, C. J.; Villa-Real, Imperial, Diaz, JJ., concurring. Laurel, J., concurs in the result.)—*Briefed by VICENTE ABAD SANTOS.*

PARTNERSHIP.—*George Litton, Plaintiff-Appellant vs. Hill & Ceron, et als., Defendants-Appellees, G. R. No. 45623, July 13, 1939.* The defendants-appellees were sentenced to pay the plaintiff the amount demanded in the complaint for nonfulfillment of a contract entered into between Ceron had obtained his consent to the motion for reconsideration by Hill, one of the defendants, on the ground that the plaintiff has not proved that Ceron had obtained his consent to the contract. Hill and Ceron, as the only partners of the firm Hill & Ceron, stipulated in their articles of partnership that each, as manager, has the management of the business of the firm and either of them can contract and sign for the partnership

with the consent of the other. *Held:* This stipulation is undoubtedly an obligation between the partners, and thereupon not imposed upon a third person contracting with the partnership. Neither is he required to inquire whether the partner whom he contracts with has previously obtained the consent of his co-partner. He has the right to presume that such partner has obtained the consent of the other in the ordinary course of human events. He will not presume naturally that such partner is violating the articles of partnership but on the contrary is acting in conformity with it, and this has its support in that the law presumes that the ordinary course of human events has been followed and that the law has been obeyed. The last presumption is equally applicable to those contracts which are the law between the parties. Nothing in the records destroys this presumption. Judgment affirmed. (Per Concepcion, J.; Avanceña, C. J., Villa-Real, Imperial, Diaz, Laurel, Moran, JJ., concurring). — *Briefed by ERNESTO P. VALENCIA.*

REGISTRATION OF LAND. — *Manuel Rodriguez, Plaintiff-Appellant vs. Daniel Tirona et al., Defendant-Appellee, G. R. No. 45374, May 27, 1939.* The appellant and appellee were owners of lots Nos. 1127 and 1128, respectively. Both parties, entered into an agreement, recognizing in a public instrument that a certain "pilapil" is the boundary line between their lands. In a cadastral proceeding subsequently held, none of the parties amended the plan according to the alleged contract. Lot No. 1128 was adjudicated in favor of the appellee, and hence, the corresponding decree of registration was issued, and on the same year, the original Certificate of Title was given. Nineteen years thereafter, the appellant presented a motion, petitioning the court to approve his plan, dividing

lot No. 1128 into lot No. 1128-A, which he seeks to reclaim, and lot No. 1128-B, the portion which, he alleged, should be allotted to the appellee. The appellant based his action on the alleged previous contract. The trial court by its order of January 17, 1936 denied the motion, hence the appeal. The court's order of February 13, 1936, granting the appellee's petition for a writ of possession to a great portion of lot No. 1128, illegally taken possession of by Manuel Rodriguez and Juan Salcedo, is the second cause of the appellant's appeal. The questions involved are: (1) whether after a lapse of nineteen years since the decree of registration was issued, the plan of the registered land can be amended; and (2) whether after such period, a writ of possession can issued. *Held*: (1) The plan cannot now be amended. The appellee denied that he had agreed on such dividing line; no such change in the plan took place after the alleged contract; the appellant did not present any opposition in the registration proceedings; and he did not present the action for amendment within one year as required by law, and, therefore, he had lost his right to reclaim lot No. 1128-A. (2) According to article 17 of Act 496, the Court of First Instance, in a proceeding for registration, can complete its orders by granting a writ of possession. But this writ can be used only against oppositors. Since, Rodriguez was not an oppositor in the registration proceedings, the writ of possession cannot issue. The adequate and true remedy is by an ordinary action. Judgment affirmed as to the order of January 17, 1936, and revoked as to that of February 13, 1936. (Per P. Concepcion, J.; Avanceña, Villa-Real, and Imperial, JJ., concurring.)—*Briefed by* EUGENIO R. FILIO.

REWARDS.—*Anastacia de Guzman, Petitioner-Appellant, vs. Ramon*

Lontok, Respondent-Appellee, G. R. No. 45958, July 22, 1939. Petitioner came into possession of certain books and papers owned by a Japanese merchant, Monji Nakagawa. Suspecting that they contained evidence of fraud against the Internal Revenue Office, she reported their presence to, and had them examined by, an Internal Revenue Inspector, who declared that they contained sufficient evidence for the prosecution of the owner. However, no written statement of the information was made by petitioner at that time. Subsequently, respondent denounced in writing to the Internal Revenue Office certain fraudulent acts of the same Nagakawa, at the same time giving information regarding the evidence of the commission of such acts. Still later, petitioner also made a written denouncement and delivered to the Internal Revenue Office the books and papers entrusted to her. With the use of the information given by respondent and the books and papers delivered by petitioner, Nagakawa was prosecuted and sentenced to pay a penalty of ₱11,169.39. Both petitioner and respondent claimed one-half of the amount as a reward in accordance with Sec. 2735 of the Revised Administrative Code which provides, "Any person... who voluntarily gives definite information leading to... the discovery of any delinquency or fraud in the payment of any internal revenue tax... shall also receive a reward equivalent to fifty per centum of the penalties..." The Government filed an interpleader. The court ordered the equal division of the amount between the parties. On appeal, the Court of Appeals held that respondent is entitled to the whole amount. Thereafter, petitioner sought out a writ of *certiorari* in the Supreme Court. *Held*: Sec. 2735 of the Revised Administrative Code does not require that the information be given in writing. It is sufficient that

the information be definite and results in the arrest and conviction of the infractor. The first paragraph of Rule No. 68 of the Internal Revenue Office states that the information must be in writing, but the last paragraph of the same also states, "All information, verbal or written, . . . will be held strictly confidential," which goes to show that verbal information may be given. When petitioner verbally gave to the Internal Revenue Inspector information about the fraudulent acts of Nakagawa, showing the evidence in her possession consisting of the books and papers, she gave the definite information required by law. Since that information contributed directly to the conviction of Nakagawa, the reward should be given to her. Writ granted. Judgment reversed. (Per Diaz, J.; Villa-Real, Imperial, Sison, JJ., concurring. Justice Sison of the Court of Appeals was designated by the Commonwealth President to take part in order to form a *quorum*. Concepcion, J., filed a separate concurring opinion. Avanceña, C. J., Laurel, Moran, JJ., did not take part.)—*Briefed by* CICERON SEVERINO.

SUCCESSION.—*In the Matter of the Intestate Estate of the Deceased Emeterio Lopez; Concepcion Lopez, Petitioner-Appellee vs. Adela Lopez, et al., Oppositors-Appellants, G. R. No. 45736, May 26, 1939.* In the intestate proceedings of the estate of the deceased Emeterio Lopez, the petitioner prayed that she be declared the universal heiress. She claimed to be the natural child of the deceased Emeterio Lopez and Juana Cuison who lived together as husband and wife until the latter's death. She continued to live with her natural father who supported, maintained, and treated her as a real daughter. The nephews and nieces of the deceased opposed the petition. *Held:* Concepcion Lopez is an acknowledged

natural child, and therefore the universal heiress of the estate of her deceased father. (1) Any person claiming to be an acknowledged natural child of a deceased need not institute a separate action for the recognition but may simply intervene in the intestate proceedings and prove therein his or her status as such and claim accordingly the right to share in the inheritance. (2) A petition praying to be declared a universal heiress is sufficient even without a prayer to be declared an acknowledged natural child because the former implies a like prayer of the latter in as much as the recognition of her status is a prerequisite to her right to heirship. (3) The oppositors cannot allege lack of notice of the petition and hearing where their counsel acting as attorney both for them and for the administrator was notified and present in such hearing. In the absence of evidence affirmatively showing such failure, the presumption of regularity must stand. (Per Moran, J.; Avanceña, Villa-Real, Imperial, Diaz, Laurel, Concepcion, JJ., concurring).—*Briefed by* HERMINIA YATCO.

SUCCESSION.—*In Re Testate Succession of Concepcion Cembrano de Pardo de Tavera; Consuelo Cembrano and Carolina Cembrano, Legatees and Appellees vs. Carmen Pardo de Tavera de Gonzales, Heir and Appellant, G. R. No. 45218, May 25, 1939.*—Concepcion Cembrano, during her lifetime made a donation inter-vivos of certain property to her children among whom was Carmen. In her testament, she left the usufruct of the free part to her sisters Consuelo and Carolina Cembrano, which consisted of monthly payment of fifty pesos to be made by Carmen from the rent of the estate which is under administration. As the monthly pension to the two sisters were not duly paid, they brought action in the Court of First

Instance which decided in their favor and adjudged that all the rents of the property under administration be applied to such payment and *in case of necessity such payment shall be taken from the property donated to Carmen Pardo de Tavera*. The question at issue is whether the testatrix, having limited the legacy of Consuelo and Carolina to the free portion, could apply the payment of the rents of the property donated to the appellant to satisfy such legacy. *Held*: The dominion of the property is transmitted to the donee and thus such property did not form part of the donor's assets at the time of the donor's death. The fact that such donation was collated does not affect the ownership, as its only object is to determine the amount of the legitimate. Concepcion Cembrano, having disposed of her property by donation, lost dominion over the same and could not consider them as part of her estate. Such being the case the property are not liable for the payment of the legacies covered by the free disposable part. Judgment reversed. (Per Avanceña, C. J.; Imperial, Diaz, Laurel, and Concepcion, JJ., concurring.)—*Briefed by YUSUP R. ABUBAKAR*.

TAXATION. — *Philippine Sugar Estate Development Co. Inc., Plaintiff-Appellee vs. Juan Posadas, in his capacity as Collector of Internal Revenue, Defendant-Appellant, G. R. No. 45189, May 26, 1939*. This is an action to recover taxes paid under protest. In 1917, the cashier of the plaintiff committed estafa in a certain amount, which was entered by the plaintiff in its book under the column of "Losses and Profits". The Internal Revenue Agent, however, ordered that this amount be entered under the column of "Items in Suspense." Because of such order, the plaintiff was not able to discount the said amount from its income report

of 1918 but was only done in 1928, when it was definitely known that it could not be recovered. Five years after, the Collector of Internal Revenue alleged for the first time that the swindled amount was erroneously discounted as a loss suffered by the plaintiff in 1928 and should have been discounted in its income report of 1918 as a loss suffered in 1917. The Collector required the payment of additional tax on the said amount which was paid under protest. The plaintiff was also a holder of some shares in a corporation organized under the laws of Argentina. Later, the represented capital of the said corporation was reduced, and in accordance with such reduction the original shares were cancelled and new shares were issued in the proportion of one new share to four original shares. The difference between the value of the original shares and the new shares was considered as loss and deducted from the income report of the plaintiff in 1928. *Held*: The plaintiff, believing in good faith that the agent had authority to do what he had done, eliminated the said loss from the title of "Profits and Losses" and placed it under the title of "Items in Suspense." Hence, he should not in equity be made responsible for the payment of additional tax. The difference between the value represented by the original shares and the new shares should not be considered a loss because the mere change of the number of shares with the same par value does not constitute a loss. Unless the new shares are sold, it cannot be known whether the reduction has resulted in a loss or not. (Per Villa-Real, J., Avanceña, C. J., Imperial, Diaz, Laurel, Concepcion, Moran, JJ., concurring.)—*Briefed by VICENTE Q. QUINTILLAN*.

TAXATION.—*Pacific Commercial Co., Plaintiff-Appellant vs. Alfredo Yatco, Defendant-Appellee., G. R. No.*

45976, July 20, 1939. The plaintiff Corporation sold on account of the Victorias Milling Co., refined sugar manufactured by the latter for which it received a certain commission. The Victorias Milling Co., paid the corresponding tax on the sale. The defendant levied the same amount of tax on the plaintiff. This transaction was carried on in two ways. At times the sugar was placed in the plaintiff's bodegas, and at other times the sugar was sent abroad. The lower Court held that when the sugar was placed in the plaintiff's bodegas, the plaintiff acted as a commission merchant, and when the sugar was sent abroad, it acted as a broker. The defendant was ordered to return to the plaintiff the amount collected from the latter for the sale of the sugar sent abroad but not that paid for the sale of the sugar placed in the plaintiff's bodegas. Both parties appealed from this decision. *Held*: There is no double taxation. The tax paid by the plaintiff is for occupa-

tion or industry. With regards to the sugar sent to its bodegas and sold later, the plaintiff acted as a commission merchant. A commission merchant is one who buys and sells personal property for another which property for this purpose is placed under his possession and control. The deposit of the sugar in the plaintiff's bodegas is made for the account and at the risk of the plaintiff until it is sold and delivered to the purchaser. A broker, as distinguished from a commission merchant, has no relation with the object brought or sold. He simply acts as an intermediary between the vendor and the vendee. In the case of the sugar sent abroad, the sugar never passes in any sense into the possession of the plaintiff Corporation and the latter acted merely as a broker. Judgment Affirmed. (Per Avanceña, C. J.; Villa-Real, Imperial, Diaz, Laurel, Concepcion, JJ., concurring.)—*Briefed by* ALFREDO LUZ BAUTISTA.
