

REMEDIAL LAW — CIVIL PROCEDURE — WHERE THE TRIAL COURT HAS ACTUALLY ACQUIRED KNOWLEDGE OF THE SERVICE OF SUMMONS, THERE IS NO NECESSITY FOR IT TO WAIT FOR THE PLAINTIFF TO FILE A MOTION TO DECLARE THE DEFENDANT IN DEFAULT. — Original action in the Court of Appeals for certiorari and mandamus. The respondent, Guzman, as administrator of the estate of the deceased spouses Miguel and Basilisa de Guzman, sought in an action to recover a land and a building thereon, appearing in the name of the couple, from the possession of one Eladia Guzman. The latter even after several extensions given her failed to file her answer. Acting on its own motion, the court declared the defendant in default and allowed the plaintiff to present his evidence in support of his claim. Judgment was subsequently rendered against her, after which she petitioned for this action on the ground that the court acted without or in excess of jurisdiction in declaring her in default, without motion to this effect by the plaintiff. **Held**, where the trial court has actually acquired knowledge of the service of summons, there is no necessity for it to wait for the plaintiff to file a motion to declare the defendant in default. Although the Rules of Court do not expressly provide that a judge may declare a party in default *motu proprio*, no provision is found therein prohibiting him from doing so. A trial judge as dispenser of justice may exercise an act which he deems necessary for a sound and proper administration of justice. **Guzman v. Hon. Judge Bayona**, (CA) G. R. No. 22535-R, May 24, 1958.

REMEDIAL LAW — CIVIL PROCEDURE — UNDER THE LIBERAL CONSTRUCTION RULE, A MOTION TO SET ASIDE AND/OR FOR NEW TRIAL FILED UNDER RULE 37 MAY BE CONSIDERED A MOTION FOR RELIEF UNDER RULE 38. — Original action in the Court of Appeals for certiorari and mandamus. Respondent Francisco Guzman, as administrator of the estate of the deceased spouses Miguel and Basilisa de Guzman, filed an action to recover a land and the improvements thereon appearing in the couple's name, from the possession of one Eladia Guzman. For the latter's failure to file her answer, she was declared in default on October 21, 1957, and judgment was entered against her on November 5, 1957. She presented a motion to set aside and for new trial based on excusable negligence on December 6, 1957, but was denied on the ground that the judgment had already become final, 30 days having elapsed from entry of judgment. **Held**, the provisions of the Rules of Court must be liberally construed to afford the litigants the opportunity to ventilate their cases in court without being barred by technicalities. The motion to set aside and/or new trial under Rule 37 may be considered a motion for relief under Rule 38. **Guzman v. Hon. Judge Bayona**, (CA) G. R. No. 22535-R, May 24, 1958.

BOOK NOTES

CASES AND MATERIALS ON NEGOTIABLE INSTRUMENTS LAW.

By Jose C. Campos and Ma. Elena Lopez-Campos. Manila Community Publishers, Inc., 1959. Pp. XII, 775 P——.

"Negotiable instruments play an important role in the business world," for they "evidence not only a large part of the wealth of the country but furnish the means and basis in which and by which the greater part of the commerce and business of the nation is conducted." Thus, a book with up-to-date cases and materials on the Negotiable Instruments Law is always in need. This book answers the need.

Mechanically, the book is divided into eight chapters excluding the introduction. A case index is provided as a guide to the several cases digested in the book. The cases are presented by stating the facts, the contention of the parties, the issues and finally the ruling of the court. Our Negotiable Instruments Law being practically a verbatim reproduction of the Uniform Negotiable Instruments Law of the United States, which, in turn, was patterned after the English Bill of Exchange Act, American and English cases are amply provided on matters wanting of jurisprudence in this country. Included as appendices are the provisions of the Negotiable Instruments Law, the Code of Commerce, and some varieties of checks.

The functions and importance of negotiable instruments, the negotiability of various instruments, the origin and the applicability of the Negotiable Instruments Law are treated in the introductory part of the book. The first chapter deals with the requisites of Negotiability, the second with Transfers, the third with Holders in Due Course, and the fourth, with Defenses. Liabilities are extensively discussed in the fifth chapter. Chapter six, which treats of Discharge is divided into two — Discharge of the Instrument and Discharge of Secondary Parties. Other types of negotiable papers and negotiable documents of title are discussed in the last two chapters.

This book will be of much help to lawyers, businessmen, and students of law who do not have all the time for research work.

THE CONGRESSIONAL POWER OF INVESTIGATION.

By Joaquin R. Roces. Manila: 1959. Pp. 27 P——.

This is a legal treatise on legislative inquiries by the Chairman of the House Committee on Good Government, which exercises this important legislative function.

After introducing the subject matter, the author discusses the basis and the purpose of legislative investigations. He divides the general power of Congress of conducting this function into inquisitorial and punitive. In connection with the latter, the cases of *Arnault v. Nazareno*, 46 O. G. 3100, and *Lopez v. De Los Reyes*, 55 Phil. 170, are exhaustively discussed.

He traces this power to the Congress of the United States with a brief discussion of the cases upholding its exercise.

Criticisms against the exercise of this investigatory function by Congress are presented at length. The author answers the criticism that party motivation inspires congressional investigations by observing that "under our party system of government, it is really impossible to divorce completely the legislator from the politician, the party from the administration, and the possibility of existence of hidden motives on the part of congressional investigators must be ever present here."

He winds up by suggesting reforms. He asks that more funds and facilities be provided to expand and implement this important function. Money spent in sending legislators to conferences and to make studies abroad should be diverted to vital local studies.

A frank, authoritative and highly informative discussion of one of the most important functions of Congress, it is very recommendable. Through it we hope to open the eyes of those in the administration to the realization that "only a fully informed Congress that makes its own studies and keeps its own experts, can legislate wisely, free from bureaucratic self-serving advice and free from pressure groups."

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