

**GRACIANO SANTOS, PETITIONER, VS. COURT OF APPEALS,
PHILIPPINE NATIONAL BANK, SPOUSES MARIANO ILAGAN AND
MARIA FLORES AND THE PROVINCIAL SHERIFF OF TARLAC
PROVINCE, RESPONDENTS.**

G.R. No. L-42679. May 25, 1979

Ponente: DE CASTRO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/0081abaed29f/>

DE CASTRO, J.:

Filed as a petition for review by certiorari, the instant petition was treated as a special civil action by Resolution of this Court dated April 26, 1976 (p. 78, Rollo).

In his petition, petitioner complains against the dismissal by the respondent Court of Appeals of his appeal from the decision of the Court of First Instance of Tarlac in Civil Case No. 4569, entitled "Graciano Santos vs. Philippine National Bank, et al", for the annulment of foreclosure proceedings and all incidents thereof, including the deed of absolute sale, and the Transfer Certificate of Title (No. 85462) in the name of the defendant Maria Flores, one of the respondents herein. The decision of the Court of First Instance of Tarlac, among others, dismissed the complaint of petitioner who, thereupon, interposed an appeal therefrom, after his motion for new trial was denied.

The ground of the dismissal of the appeal by the respondent Court of Appeals, as was also the ground of the "Motion to Dismiss the Appeal" filed by the defendant Philippine National Bank in Civil Case No. 4569 of the Court of First Instance of Tarlac is, as the Resolution of the Court dated November 29, 1974 (pp. 17-19, Rollo, Annex "D", Petition) states:

"It is thus evident that the record on appeal suffers from jurisdictional defects. There is no way from which to determine when the period for appeal should commence and when it expired. As held by the Supreme Court, where nothing is stated in the record on appeal regarding the date when the appellant received the notice or copy of the appealed order or judgment, such omission is fatal to the appeal (*Government vs. Antonio*, 15 SCRA 119; *Luzon Stevedoring Corporation vs. Court of Appeals*, 34 SCRA 73; *Anota vs. Bermudo, Jr.*, 25 SCRA 43). Such date is important in the determination of whether or not the record on appeal was filed on time (*DBP vs. Santos*, L-26387, September 27, 1966, 18 SCRA 113)."

The ruling relied upon by the respondent court has already been modified by later cases, among which are *Krueger vs. CA*, L-41063, January 20, 1976, 69 SCRA 50; *Villanueva vs. CA*, L-29719, November 28, 1975, 68 SCRA 216; *Pan American World Airways, Inc. vs. Espiritu*, January 20, 1976, 69 SCRA 36. From the uniform doctrine enunciated in these later cases, to the effect that the failure to show on the fact of the Record on Appeal the date when the petitioner received the decision of the trial court, and such other data to show that the appeal was duly perfected, is not a fatal defect, the trial court's approval of the Record on Appeal having served to cure whatever defects or omissions there are. (See also *Garcia vs. CA, et al.*, L-35234, May 26, 1977, 77 SCRA 149; *Garcia vs. CA*, L-34620, April 29, 1977, 76 SCRA 609; *Del Rosario vs. Cunanan*, L-37903, March 30, 1977, 76

SCRA 136; Libongco vs. CA, L-39439, February 28, 1977, 75 SCRA 333, Pajarillo vs. CA, L-38344, November 29, 1976, 74 SCRA 151; Gregorio vs. CA, L-39393, October 29, 1976, 73 SCRA 608; Cabalza vs. CA, L-37996, October 29, 1976, 73 SCRA 593; Zuzuarregui Vda. de Reyes vs. CA, L-39277, October 24, 1976, 73 SCRA 593; Morales vs. CA, L-37229, October 21, 1975, 67 SCRA 304; Republic vs. CA, L-40495-96, October 21, 1975, 67 SCRA 322).

An examination of the Record on Appeal (Annex "A" to Petition, p. 32, Rollo) shows that, upon motion of the petitioner for the approval of the Record on Appeal, which was alleged therein as "having been filed within the reglementary period", the trial court approved the Record on Appeal (p. 114, R.A.). With this fact clearly appearing on the Record on Appeal, the defect upon which the respondent court predicated its dismissal of petitioner's appeal was deemed cured and, therefore, cannot serve to give legal justification to its act of dismissing the appeal.

Private respondents, however, question the propriety of treating the petition not as a review by certiorari, but as a special civil action. They point to the fact that as an appeal by certiorari, the petition was filed out of time under the provision of Section 1, Rule 45 of the Rules of Court which provides:

"A party may appeal by certiorari from a judgment of the Court of Appeals by filing with the Supreme Court a petition for certiorari within 15 days from notice of judgment or of the denial of his motion for reconsideration filed in due time and paying at the same time, to the clerk of said court the corresponding fee. The petition shall not be acted upon without proof of service of a copy thereof to the Court of Appeals."

In the face of the patent error of respondent court in dismissing the appeal of the petitioner on a ground no longer valid in the light of the liberalized doctrines laid down in more recent cases than those relied upon by the respondent court, it would be a manifest injustice were the action taken by said court to deprive, in an illegal way, petitioner's right to appeal, left uncorrected. When compelling reasons exist, as in this case, to depart from a strict procedural prescription in order to attain substantial justice, such lapse of procedure would take on the character of a mere technicality which can not be allowed to be a hindrance to dispensing real and substantial justice (Gregorio vs. CA, L-43511, July 28, 1976, 72 SCRA 120; Obut vs. CA, et al., L-40535, April 30, 1976, 70 SCRA 546; Villanueva vs. CA, L-29719, November 28, 1975, 68 SCRA 216; Rodriguez, et al. vs. CA, et al, L-37522, November 28, 1975, 68 SCRA 262; Berkenkotter vs. CA, L-36629, September 28, 1973, 53 SCRA 228). In thus treating the instant petition as a special civil action, the dictates of equity and justice have been what this Court has harkened to, in obedience to the injunction of applying the rules of procedure with liberality with a view to attaining substantial justice (Araneta vs. Doronilla, L-34882, August 24, 1976, L-35643, August 24, 1976, 72 SCRA 413. Canturna vs. CA, et al. L-40934, April 30, 1976, 70 SCRA 563; Pan American World Airways Inc. vs. Espiritu, L-35401, January 20, 1976, 69 SCRA 36).

WHEREFORE, the Resolution appealed from should be as it is hereby reversed. The appeal of petitioner is ordered reinstated, for proper further action or proceedings. No pronouncement as to costs.

SO ORDERED.

Teehankee, (Chairman), Makasiar, Guerrero, and Melencio-Herrera, JJ., concur.
Fernandez, J., took no part.

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.