

BASILIO G. GODINEZ, TECIA, GREGORIA, TRANQUILINO AND CONCEPCION, ALL SURNAMED GODINEZ AND PEDRO JAYME, PETITIONERS, VS. COURT OF APPEALS, PEDRO PATALINGHUG, MAMERTO IGOT, LORENZ...

G.R. No. L-29595. April 30, 1970

Ponente: MAKALINTAL, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/061c8040c224/>

MAKALINTAL, J.:

On January 31, 1929 the Court of First Instance of Cebu, acting as a cadastral court, rendered a decision adjudicating lot No. 655 of the Opon Cadastre to seven persons or groups of persons, but erroneously gave each adjudicatee an undivided one-sixth part of the property. In view thereof, and of the fact that the civil status of some of the adjudicatees was not specified, the corresponding decree of registration could not be issued. To correct the error the petitioners here filed a motion in cadastral record on January 7, 1967, claiming that they are the legitimate descendants and heirs of Carmeling Godinez, one of a group of several persons to whom a portion of the aforesaid lot had been adjudicated. Herein private respondents opposed the motion, but the trial court overruled the opposition and in an order dated May 10, 1967 directed that the 1929 decision be amended accordingly. On June 16, 1967 the same court issued another order, this time for the issuance of a final decree of registration by the Land Registration Commissioner. Respondents moved to reconsider both orders, but were turned down on August 17, 1967.

On August 25, 1967 respondents filed their notice of appeal and appeal bond. The record on appeal was likewise filed and thereafter transmitted to the Court of Appeals, where the appellees, now petitioners herein, moved to dismiss the appeal on several grounds. The appellate court denied the motion, as well as a subsequent motion to reconsider the order of denial, and petitioners came to us on the instant petition for certiorari, prohibition and mandamus, asking that the orders of the Court of Appeals be set aside and that the said Court be directed to dismiss the appeal of respondents.

The grounds relied upon in the petition are: (1) that the record on appeal fails to show on its face that the appeal was perfected within the reglementary period, in violation of Section 6 of Rule 41; (2) that the record on appeal does not specify the full names of all the parties, contrary to the same provision of the Rules; (3) that the printed record on appeal does not contain the order of the trial court approving the amended record on appeal and directing its transmittal to the Court of Appeals; (4) that the printed record on appeal does not contain a certificate of the Clerk of the trial court that he had verified the correctness of the contents; (5) that the decision in the main case (rendered in 1929) had already become final and unappealable; (6) that the orders subject of the appeal are merely interlocutory and hence not appealable; that the omitted pleadings as pointed out by petitioners in their opposition to the approval of the record on appeal are not properly indicated in the amended record on appeal; and (7) and that certain annexes (A,B, C and D) of said opposition are not included in the said record.

We now proceed to consider the foregoing grounds seriatim:

(1) Petitioners' averment on the first point is not accurate. It is premised on the assumption that the record on appeal shows on its face that it was filed only on September 13, 1967, which date is admittedly beyond the reglementary period. However, what was filed on that date was the amended record on appeal; the original record on appeal was filed on August 25, 1967 well within the said period.+ This date is sufficiently indicated on the face of the printed record on appeal by means of the following statement on page 107 thereof:

"x x x That on August 31, 1967 the oppositors through undersigned counsel received the opposition to the Record on Appeal filed August 25, 1967, as follows:

"OPPOSITION TO RECORD ON APPEAL

FILED AUGUST 25, 1967"

x x x

As may be noted, the filing of the record on appeal by herein respondents on August 25, 1967, is admitted by petitioners in their opposition thereto; and the fact that said opposition is reproduced in the record constitutes a substantial compliance with the requirement of Section 6, Rule 41, that the record shall include "such data as will show that the appeal was perfected on time."

(2) Petitioners claim that the full names of the parties are not stated in the caption of the record on appeal, as required by the same provision of the Rules. The claim is not true, since the names of the parties involved in the incident subject of the appeal are set out both on the cover page of the printed record on appeal and on the caption immediately preceding the subject-index, although not repeated just before the main body of the record itself, where the caption reads merely "The Director of Lands versus Eulalia Agujai, et al.," to identify the cadastral case under which the lot in question was originally adjudicated. (3 and 4). The omission in the printed record on appeal of the order of the trial court approving the same and of the certification of the Clerk of Court that he had verified the correctness of its contents is not a fatal defect and does not constitute one of the grounds upon which the appeal may be dismissed, as enumerated in Section 1 of Rule 50. Petitioners do not deny that the record on appeal was duly approved, or that its contents as printed are correct. Indeed respondents have submitted as annexes to their answer a certified true copy each of the order of approval issued by the trial court and the certification of correctness signed by the Clerk, showing compliance with the correspond-ing provisions found, in Section 7 and 10, respectively, of Rule 41. Respondents also allege that similar annexes were submitted by them to the Court of Appeals in connection with their opposition to the motion to dismiss the appeal, and said allegation is not controverted. (5 and 6). It is true that the decision rendered in the main cadastral case in 1929 has long become final and unappealable, but the appeal now before the Court of Appeals is not from that decision but, from the order of the trial Court of May 10, 1967 direct-ing certain corrections therein, as well as from the order of June 16, 1967, for the issuance of a final decree of regis-tration. These orders are not interlocutory in nature, and whether they are justified or not is precisely the issue that must be threshed out in the appeal. (7) The omission a certain pleadings and of the annexes to the opposition of petitioners to the approval of the record on appeal is not of itself a ground for the dismissal of the appeal, there being no showing, either here or in the Court of Appeals in connection with the motion to dismiss therein, that said pleadings and annexes are necessary for a proper understand-ing and resolution of the issues.

WHEREFORE, the writs prayed for are hereby denied, with costs against petitioners.

Concepcion, C.J., Dizon, Zaldivar, Ruiz Castro, Fernando, Teehankee, and Villamor, JJ., concur.
Reyes, JBL and Barredo, JJ., did not take part.

+ The other material dates which serve as bases of computation are not controverted and are shown on the record on appeal.

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.