

ELENA GENOBIAGON, PETITIONER, VS. THE HONORABLE COURT OF APPEALS AND ANTONIO LAYOS, RESPONDENTS.

G.R. No. L-44323. March 02, 1977

Ponente: AQUINO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/240c067327cc/>

AQUINO, J.:

On March 8, 1973 Antonio Layos sued Elena Genobiagon in the Court of First Instance of Cebu for the partition of a lot located at Cebu City with an area of 403 square meters, together with the building thereon.

Layos alleged that he owned nine-tenths (9/10) of the pro-perty because he purchased that portion from Elena's mother, two brothers and sister, and that Elena owned one-tenth (1/10) thereof. He prayed that Elena be ordered to sell to him her one-tenth share with an area of forty square meters and to pay P40,000 as damages (Civil Case No. R-13234).

Elena Genobiagon, who appears to be in possession of the property, alleged in her answer that she owned more than one-tenth of the land and that Layos has no cause of action against her. She assumed that her parents, Flavia Sosas and Felipe Geno-biagon, were married.

At the pre-trial, Layos adopted another theory. He alleged that he is the owner of the whole land because he bought it from Flavia Sosas, the common-law wife of the deceased Felipe Geno-biagon. Elena Genobiagon also changed her theory. She contended that the lot was owned in common by Flavia Sosas and Felipe Genobiagon. She abandoned the defense that Flavia and Felipe were married and that the lot was their conjugal property. She presented evidence that her parents were not married.

The trial court in its decision found that Flavia Sosas bought the lot in 1953 on the installment basis. After paying all the install-ments, she secured in 1960 a title in her name for the said lot. She sold the property to Layos in 1973.

The trial court also found that when Flavia Sosas acquired the lot she was no longer living with Felipe Genobiagon. Elena tes-tified that her father, Felipe, died in the United States in 1967. The trial, court conluded that the lot in question belonged exclusively to Flavia Sosas and was not jointly owned by her and her common-law husband, Felipe, and that Layos acquired full ownership thereof when he purchased it from Flavia.

It is evident that Elena Genobiagon's evidence and her change of theory became the bases for the trial court's holding against her. Had she relied on Layos' admission that she owned one-tenth of the property, as shown in the annotation in Layos' title of her one-tenth interest, the trial court could have confirmed her one-tenth share in its judgment.

But she changed her theory and, by means of her own evi-dence, she gave the trial court the justification for holding that she has no interest at all in the disputed property.

From the trial court's adverse decision, Elena Genobiagon perfected an appeal to the Court of Appeals. That

Court, on Layos' motion, dismissed her appeal on the ground that her eight-page mimeographed brief does not contain any page references to the record and does not even have any statement of facts (Resolution of May 18, 1976, CA-G. R. No. 58254-R).

Against that dismissal resolution, Elena Genobiagon's remedy would have been an appeal by certiorari under Rule 45 of the Rules of Court within the fifteen-day reglementary period. However, instead of interposing that appeal, she filed a petition for certiorari twenty-four days after her receipt of the resolution denying her motion for reconsideration. She alleged that the Court of Appeals acted with grave abuse of discretion in dis-missing her appeal due to a mere technicality.

We hold that Elena Genobiagon's "appeal by certiorari" to this Court is devoid of merit. The dismissal resolution of the Court of Appeals is based on section 16[d], Rule 46 of the Rules of Court which provides that the appellant's brief shall contain in the "statement of facts", a clear and concise statement in a narrative form of the facts admitted by both parties and of those in controversy, together with the substance of the proof relating thereto in sufficient detail to make it clearly intelligible, with page references to the record".

Section 1[g], Rule 50 of the Rules of Court provides that an appeal may be dismissed by the Court of Appeals, on its own motion or on that of the appellee, for want "of page references to the record as required in section 16[d] of Rule 46".

The Court of Appeals acted within its jurisdiction in dis-missing the appeal of Elena Genobiagon because her brief does not contain a statement of facts with page references to the record. It would be absurd to say that the Court of Appeals, in applying section 1[g] of Rule 50, gravely abused its discretion.

An examination of Elena Genobiagon's eight-page brief shows that her counsel has not understood the trial court's decision. For example, in the first assignment of error, her counsel argues that the trial court erred in not declaring that Flavia Sosas and Felipe Genobiagon were not legally married. That contention is wrong because, as already noted, the trial court found that "neither the plaintiff nor the defendant had presented in evidence any marriage contract or marriage certificate of Flavia (Sosas) Genobiagon and Felipe Genobiagon". That means that the trial court found that Flavia Sosas and Felipe Genobiagon were not married.

WHEREFORE, the petition for certiorari is dismissed. The resolution of the Court of Appeals dismissing Elena Geno-biagon's appeal is affirmed. No costs.

SO ORDERED.

Fernando, (Chairman), Antonio, and Concepcion, Jr., JJ., concur.
Barredo, J., concurs in a separate opinion.

Clean Clean 6 pt 6 pt 0 3 MicrosoftInternetExplorer4 /* Style Definitions */ table.MsoNormalTable {mso-style-name:"Table Normal"; mso-tstyle-rowband-size:0; mso-tstyle-colband-size:0; mso-style-noshow:yes; mso-style-parent:""; mso-padding-alt:0in 5.4pt 0in 5.4pt; mso-para-margin:0in; mso-para-margin-bottom:.0001pt; mso-pagination:widow-orphan; font-size:10.0pt; font-family:"Times New Roman";}

CONCURRING OPINION

BARREDO, J.:

I concur.

Reading Section 1 (g) of Rule 50, on Dismissal of Appeal, together with Section 16 (d) of Rule 46, which states that among other requisites, the appellant's brief SHALL contain a "Statement of Facts", with page references to the record, it is very clear that even if a "Statement of Facts" is made in appellant's brief, omission of the corresponding page references to the record is a ground for dismissal addressed to the sound discretion of the court. I hold that this ground of dismissal is not mandatory and may be overlooked when the circumstances of any given case demand a different course of action in order not to defeat the ends of justice. But when there is a complete omission of the "Statement of Facts", the rule should be otherwise. In such a situation, it is obvious that there is not only a literal violation of the rules - there is manifest evidence of gross indifference of counsel to the lawyer's duty to duly present the case of his client in a brief, simple and comprehensible manner that would enable the court to have adequate basis for action, without having to meander by itself into the mazy labyrinths of the records without chart or compass, spending in doing so precious time and effort which it could otherwise devote to other cases, with the consequent corresponding impairment of the interests of justice as to everyone concerned.

Moreover, it appears that in view of the failure of petitioner to appeal within the reglementary period from the resolution of dismissal of the Court of Appeals of May 18, 1976, all her avenues of possible redress for any cause for complaint she might have had were sealed upon the expiration of said period. Her petition for certiorari filed twenty-four days after her receipt of the resolution denying her motion for reconsideration cannot be used as substitute for an appeal she lost by abandonment. It is hardly indicative of the degree of due diligence which she should have dedicated to her cause, if she really believes in it.

I deem it necessary to make the above observations, lest it be said that because of the fact that petitioner's one-tenth interest in the land in controversy was annotated in the title, her ownership of such fraction thereof may not be ignored as part of the indefeasibility of the title itself. By her own acts at the pre-trial, as recounted in the main opinion, she has laid whatever right could spring in her favor from such annotation open to doubt, and with the fatal faults above-discussed of her brief, it stands to reason that no inequity can result even if the controversy were laid to rest where the Court of Appeals has buried it.

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.