

BANK OF THE PHILIPPINE ISLANDS, PLAINTIFF-APPELLANT, VS. SPS. LIZETTE T. DANAÓ AND ARIEL P. DANAÓ, DEFENDANTS-APPELLEES.

Ponente: BATO, JR., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/2c5c0f091cf6/>

BATO, JR., J.:

Submitted for this Court's resolution is plaintiff-appellant's Motion for Extension of Time To File Memorandum[1] dated January 30, 2015 praying for an additional period of thirty (30) days from February 19, 2015 or until March 21, 2015 within which to file the appellant's brief.

The motion must be denied.

Rule 44, Section 7 of the 1997 Rules of Civil Procedure mandates that the appellant shall file his brief (not a memorandum) within forty-five (45) days from receipt of notice. If the appeal brief cannot be filed on time, extension of time may be allowed provided (1) there is good and sufficient cause, and (2) the motion for extension is filed before the expiration of the time sought to be extended.[2]

A perusal of the rollo of this case shows that the instant motion is filed out of time. Under the aforementioned Rule, plaintiff-appellant had 45 days or until January 25, 2015[*] within which to file its appellant's brief. Per Registry Return Card,[3] plaintiff-appellant filed the instant motion for extension – which he erroneously denominated as a memorandum when it should have been an Appellant's Brief – only on February 4, 2015 or ten (10) days after the expiration of the 45-day reglementary period provided under the Rules.

Also, we find the reasons advanced by plaintiff-appellant for the granting of an additional period of 30 days not within the purview of “good and sufficient cause” as required by the Rules but on the oft-repeated excuse of “heavy pressure of work consisting of almost daily appearances in court and the preparation of equally urgent and important pleadings in other cases.” However, other than plaintiff-appellant's counsel's barefaced allegations, no specific details were proffered by him as to what pleadings he prepared and the hearings he attended which prevented him from filing the brief on time.

The well-settled rule is that no party has a right to an extension of time to comply with an obligation within the period set therefor by law; motions for extension are not granted as a matter of course; their concession lies in the sound discretion of the Court exercised in accordance with the attendant circumstances; and the movant is not justified in assuming that the extension sought will be granted, or that it will be granted for the length of time suggested by him.[4] Moreover, equally settled is the rule that a motion for extension of time should be filed prior to the expiration or lapse of the period fixed by law, and beyond dispute, if the motion for extension is filed after the expiration of the period sought to be extended (i.e., the reglementary period to appeal), then there is no longer any period to extend, and the judgment or order to be appealed from will have become final and executory.[5]

WHEREFORE, for being filed out of time and lack of merit, the instant motion is DENIED. Further, it appearing that, as of this date, no appellant's brief has been filed, the above-entitled case is hereby DISMISSED pursuant to Section 1(e), Rule 50[6] of the 1997 Rules of Civil Procedure.

The above-entitled case is now considered CLOSED and TERMINATED.

SO ORDERED.

Barrios, and Diy, JJ., concur.

[1] Rollo, pp. 19-20.

[2] Section 12, Rule 44 of the 1997 Rules of Civil Procedure.

[*] Plaintiff-appellant received the Notice to File Appellant's Brief on December 11, 2014, per Registry Return Card, Rollo, dorsal portion of p. 18.

[3] Rollo, dorsal portion of p. 18.

[4] Diman vs. Alumbres, G.R. No. 131466, November 27, 1998.

[5] Ditching vs. Court of Appeals, G.R. No. 109834, October 18, 1996.

[6] Section 1. Grounds for the dismissal of appeal. - An appeal may be dismissed by the Court of Appeals, on its own motion or on that of the appellee, on the following grounds:

x x x x x x x x

(e) Failure of the appellant to serve and file the required number of copies of his brief or memorandum within the time provided by these Rules;

x x x x x x x x.

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.