

JOSE FERNANDEZ, ET AL., PLAINTIFFS AND APPELLEES, VS. KEE WA, DEFENDANT AND APPELLANT.*G.R. No. L-8640. May 30, 1956*

Ponente: LABRADOR, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/301c07dfe2ae/>**LABRADOR, J.:**

Plaintiffs instituted this action in the Municipal Court of Manila to recover from defendant their salary differentials and overtime pay. Salary differentials are claimed on the ground that defendant, who had employed plaintiffs, had paid them wages below that provided for by the Minimum Wage Law, and overtime pay is demanded because he made them work for more than eight hours in violation of the Eight-Hour Labor Law. However, 10 days after the action was filed and before defendant could be summoned, plaintiffs filed a notice of dismissal. There upon the judge dismissed the case, but on the same day he made the dismissal with prejudice. These dismissals bear the date of February 10, 1954. On February 22, 1954, plaintiffs moved to set aside the order of dismissal and for the reinstatement of the complaint and trial on the merits, alleging that the plaintiffs' notice to dismiss had been secured by defendant through fraud. This was supposed to consist in defendant's promising to reemploy the plaintiffs but without doing so after the complaint had been dismissed. This motion to set aside and reinstate the case was denied by the municipal court on March 16, 1954. Of this order plaintiffs were notified on March 27. On March 29, plaintiffs moved to reconsider the order denying the motion to set aside. The court denied this motion on April 10, and upon being notified thereof on April 19, plaintiffs filed a notice of appeal dated April 24, 1954, seven days from date of notice of order denying motion to set aside. On April 24, 1954, they also presented a motion to litigate and appeal as paupers. The court approved this motion on May 20, 1954 and gave due course to the appeal.

The case having been registered in the Court of First Instance, defendant promptly filed a motion to dismiss the appeal on the ground that the municipal court denied plaintiffs' motion for reconsideration properly and that the appeal was not perfected within the time prescribed by the rules. After receiving the opposition to defendant's motion to dismiss the appeal, the court reversed the order of the municipal court refusing to reconsider its order to set aside the dismissal, and remanded the case to the court of origin for further proceedings as provided by section 10 of Rule 40 of the Rules (inasmuch as there had been no trial in the court below, the case having been dismissed without a valid trial upon the merits). From this order of reversal and remand, defendant appealed to this Court after an attempt on his part to have the order reconsidered.

On this appeal various assignments of error have been made, among which are the following: that the Court of First Instance could not consider in the appeal thereto the order of February 10, 1954, dismissing the complaint, because the notice of appeal expressly states that the appeal is being made against the order of the court of April 10, 1954; that the order of dismissal of February 10, 1954, was not appealable; that the appeal was not perfected in time (which is not correct); etc.

Without considering the merits of the errors assigned as above indicated, we are forced to state that the appeal is premature, as no final judgment or order has yet been rendered for one party or the other (section 2, Rule 41). The

order of the Court of First Instance remanding the case to the justice of the peace for trial on the merits is merely an interlocutory order which does not constitute a final judgment terminating the case.

The appeal is hereby dismissed, with costs against appellant.

Paras, C. J., Bengzon, Padilla, Montemayor, Reyes, A., Bautista Angelo, Concepcion, Reyes, J. B. L., and Endencia, JJ., concur.

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.