

SILVERIO SALVA, PETITIONER, VS. THE HON. PERFECTO R. PALACIO, AND THE HON. JOSE N. LEUTERIO, JUDGES OF THE COURT OF FIRST INSTANCE OF CAMARINES SUR, ELENO CORNEJO, PEDRO UMALI A...

G.R. No. L-4247. January 30, 1952

Ponente: PADILLA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/4b4254d32689/>

PADILLA, J.:

In the Court of First Instance of Camarines Sur Eleno Cornejo and Pedro Umali each filed an application for registration of certain parcels of land described therein under the provisions of Act 496 (land registration cases Nos. 136 and 137, G. L. R. O. Rec. Nos. 982 and 983, of the Court of First Instance of Camarines Sur). Silverio Salva filed an opposition to the registration applied for in both cases. In the same court, Silverio Salva brought an action for ejectment against the applicants for registration involving the same parcels of land (civil case No. 1220). The joint hearing of the ejectment and the land registration cases was set for 8 December 1949. On that day the attorney for the plaintiff in the civil and oppositor in the land registration cases failed to appear. Two days before the date set for the hearing, however, he filed a petition for postponement of the hearing because of his inability to appear on account of his wife's ailment who had to be brought to a hospital in Legaspi, Albay, for an X-ray examination to find out the cause of persistent and serious kidney pains suffered by her. The respondent court denied the petition, dismissed the complaint for ejectment and granted to the applicants in the land registration cases leave to present evidence in support of their respective applications. Upon the evidence thus presented the respondent court confirmed the title of the applicants to the parcels of land sought to be registered and decreed their registration in the name of Eleno Cornejo and Pedro Umali, respectively. The plaintiff in the civil case and oppositor in the land registration cases filed a notice of appeal and the record on appeal within the reglementary period but filed the appeal bond two days after the expiry of the extension granted by the court before the expiration of the reglementary period. The record on appeal was disallowed because of failure of the oppositor to file the appeal bond not only within the time prescribed by the rules but also within the additional period granted him by the court to perfect his appeal, and to include in the record on appeal the notice of initial hearing, the order of general default, the opposition of the oppositor and the order setting the hearing of the cases for 8 December 1949. By the order of 26 April 1950 the respondent court dismissed the appeal. On 6 May 1950, a motion for reconsideration was filed by the oppositor on the ground that in land registration cases no appeal bond need be filed and that failure to set out in the record on appeal some of the proceedings is no ground for dismissal of the appeal. The motion for reconsideration was denied.

Thereupon, this petition was filed to compel the Court of First Instance of Camarines Sur to allow the amendment of the record on appeal and after amendment to approve and forward it to the Court of Appeals for review of the judgment rendered in the land registration cases and to enjoin the Chief of the Land Registration Office from issuing the decrees in said cases.

It is contended that the respondent court exceeded its jurisdiction or committed a grave abuse of discretion in

dismissing the appeal because had the respondent court complied with the provisions of section 7, Rule 41, which provides that, if the record on appeal left out a matter or matters "deemed essential to the determination of the issue of law or fact involved in the appeal," the trial court, *motu proprio* or upon petition of the appellee, may order the amendment of said record on appeal "within the time limited in the order, or such extension as may be granted," the period within which the appeal could have been perfected *ipso facto* would have been extended, including the filing of the appeal bond. It is also contended that the respondent court exceeded its jurisdiction or committed a grave abuse of discretion by entering the orders for the issuance of the decrees in the land registration cases, without first deciding the motion for reconsideration, as the records of said land registration cases on file in the General Land Registration Office show; and that there is no other plain, speedy and adequate remedy in the ordinary course of law.

This petition should have been filed in the Court of Appeals because it is a special civil remedy in aid of the appellate jurisdiction of the Court of Appeals.[1] Had the record on appeal been allowed it would have come under the appellate jurisdiction of the Court of Appeals. The herein petitioner himself so states in his petition. Nevertheless, the jurisdiction of the Court of Appeals would be original and not exclusive. It is not so, because under and pursuant to section 17, par. 6, Republic Act No. 296, cases in which only errors or questions of law are involved may be heard and decided by this Court.

There is no merit in the contention that the respondent court committed abuse of discretion in denying the motion for postponement and in granting to the applicants in the land registration cases leave to present evidence in support of their applications upon failure of counsel for the oppositor, the herein petitioner, to appear, because the denial of a motion for postponement lies within the discretion of the trial court and unless an abuse thereof is shown it should not be disturbed.

What the herein petitioner or his counsel should have done in the court below was to file a motion for relief under Rule 38 and not to appeal from the judgment of the court below entered in the land registration cases, for even if the record on appeal had been allowed the appeal would have been futile because there would have been no evidence upon which the appeal could be based unless the petitioner, as appellant, had in mind or intended to rely on the insufficiency of the applicants' evidence to support the applications. From the denial of the petition for relief under Rule 38 the petitioner could have appealed.

The judgments entered in the land registration cases having become final, the court below did not commit a grave abuse of discretion in ordering the issuance of the decrees based upon such final judgments. The failure of the petitioner to file the appeal bond within the reglementary period was fatal. Even if the court below should have allowed him to amend his record on appeal to include certain matters omitted or left out, the period for the filing of the appeal bond would not have been extended, because the extension granted to amend a record on appeal did not carry with it the extension of the reglementary period for the filing of the appeal bond.

In the answer of the respondents it appears that the order denying the motion for postponement, which is the main point of the petitioner's complaint, was due to the fact that the attorney for the petitioner, as oppositor in the land registration cases, on previous occasions had filed motions for postponement just one or two days before the date set for the hearing, to the prejudice and damage of the applicants in the land registration cases.

The petition is denied, with costs against the petitioner.

Paras, C. J., Pablo, Bengzon, Tuason, Montemayor, Reyes, Jugo, and Bautista Angelo, JJ., concur.

[1] Section 30, Republic Act 296.

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.