

CELSO VALERA, PETITIONER, VS. THE HONORABLE COURT OF APPEALS (FOURTH DIVISION), ADORACION VALERA DE BRINGAS AND ROMEO R. BRINGAS, RESPONDENTS.

G.R. No. L-29416. January 28, 1971

Ponente: CONCEPCION, C.J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/50d12310ec13/>

CONCEPCION, C.J.:

The only issue for determination in this appeal by certiorari is whether or not the Court of Appeals has erred in dismissing the appeal of petitioner Celso Valera, upon the ground of "failure of the record on appeal to show on its face that the appeal was perfected" within the reglementary period, in violation of Section 6 of Rule 41 in relation to Section 1(a), Rule 50, of the Rules of Court.

It appears that, on November 12, 1965, the Court of First Instance of Abra rendered a decision, in Civil Case No. 374 of said Court, declaring "that plaintiff Adoracion Valera de Bringas is the acknowledged natural child of Francisco Valera" and directing the defendants in said case - Virgilio Valera, Celso Valera and Mercedes Angco Vda. de Valera - to "recognize" said Adoracion Valera de Bringas as such acknowledged natural child of Francisco Valera, as well as dismissing, for lack of merit, the counterclaim and cross-claim of defendants Virgilio and Celso Valera, without special pronouncements as to costs. Copy of said decision was, on November 15, 1965, served upon defendants Virgilio Valera and Celso Valera, who, on December 14, 1965, filed his notice of appeal and appeal bond and asked for an extension of thirty (30) days within which to file his record on appeal, which was granted on January 14, 1966. The lower court ordered Celso Valera on March 18, 1966, to amend his record on appeal, and, on June 28, 1966, approved the amended record on appeal.

Being silent on the date on which the original record on appeal had been filed, the amended record on appeal does not show on its face that said original record on appeal was filed within the extension of time granted by the trial court on January 14, 1966, and, accordingly, that the appeal had been perfected within the reglementary period, considering, particularly, that the order directing the amendment of said record on appeal was not issued until March 18, 1966. On December 20, 1967, the plaintiffs-appellees filed, therefore, with the Court of Appeals, a motion for dismissal of the appeal upon this ground, which was denied in a resolution of the Fourth Division of said Court, dated January 11, 1968, which directed, however, that the issue thus raised be considered when the case shall be taken up, for decision on the merits, by the Division to which it may thereafter be assigned therefor. A motion for reconsideration of said resolution was denied on March 7, 1968, by a special division of the Court of Appeals. However, by a resolution, dated July 16, 1968, the Fifth Division of the same Court - to which the case had, presumably, been assigned for decision on the merits - the appeal was eventually dismissed, "pursuant to Rule 50, section 1, paragraph (a), in relation to Rule 41, section 6, of the Rules of Court x x x." Hence this petition of Celso Valera for review by certiorari of said resolution of July 16, 1968.

Petitioner maintains that the failure of his Amended Record on Appeal to state the date of the filing of his Original Record on Appeal does not justify the dismissal of his appeal inasmuch as: (1) "the date of filing (of the original

record on appeal) being a posterior act, the same is not required to be stated in the record on appeal which is prepared before it is filed," and (2) the date of the filing of the original record on appeal is stamped thereon.

The first ground might have a semblance of validity had the record on appeal approved by the lower court and certified to the Court of Appeals been the Original Record on Appeal, for the date on which it was filed would appear stamped thereon. In the case at bar, the Court of Appeals had no more than the Amended Record on Appeal, which was submitted subsequently to the Original Record on Appeal. The date of the filing thereof does not appear in the records of the Court of Appeals. Moreover, said date could have and should have been stated in the Amended Record on Appeal. The certification by the Clerk of the trial court, to the effect that the original record on appeal had been filed on January 7, 1966, is not sufficient to cure the defect of the amended record on appeal.

In a resolution dated October 19, 1965, this Court, speaking through Mr. Justice Reyes (J.B.L.), had occasion to say:

"There is no showing, therefore, in any way in the records of appeal that the notices of appeal, appeal bond and record on appeal were filed within 30 days from notice of the appealed order, after deducting the period during which the motions for reconsideration were pending, as required by Rule 41, section 3.

"The deficiencies pointed out are fatal. For the reason that in ordinary appeals the original record is not forwarded to the appellate court, and because the dates when an applicant received the notice of the pertinent orders or judgment under appeal, and of the denial of his motions for reconsideration or new trial, are facts within the exclusive knowledge of said applicant, the Revised Rules of Court place upon the appellant the burden of showing that his appeal is timely, and for that purpose prescribe (Rule 41, sec. 6) that the record of appeal shall include 'such data as will show that the appeal was perfected on time.' This requirement is mandatory and jurisdictional, for unless appeal is perfected on time the appellate court acquires no jurisdiction over the appealed case, and has power only to dismiss the appeal (*Bello vs. Fernando*, L-16970, Jan. 30, 1962; *Caisip vs. Cabangon*, L-14684, August 26, 1960; *Espartero vs. Ladaw*, 49 Off. Gaz. 1439). x x x. "[1]

This view was reiterated in *Araneta v. Madrigal*[2], in which the Court added:

"In this connection, it should be noted that, prior to the promulgation of the Rules of Court now in force, the first sentence of Section 6 of Rule 41, was as follows:

'The full names of all the parties to the proceeding shall be stated in the caption of the record on appeal, and it shall include the order or judgment from which the appeal is taken, and, in chronological order, copies of all pleadings, petitions, motions and all interlocutory orders relating to the appealed order or judgment.'

"This Court noticed, however, that issues were often raised in appellate courts on whether the appeal had been perfected on time or not, owing to the fact that the data pertinent thereto were not set forth in the record on appeal. Inasmuch as the records of trial courts, in cases appealed by record on appeal, are not forwarded to appellate courts, the latter had no means of checking or verifying the conflicting allegations of fact made, either in the briefs, or in the motion to dismiss the appeal and the opposition thereto, filed by the parties. As a consequence, appellate courts had to examine such evidence as the parties may have submitted thereto, in support of their respective contentions. This entailed additional work and unnecessary waste of time, that contributed to the delay in the final determination of appealed cases. To eliminate such obstacles to the speedy administration of justice, this Court deemed it best, not only to rephrase the first sentence of said Section 6, so as to read:

'The full names of all the parties to the proceedings shall be stated in the caption of the record on appeal and it shall include the order or judgment from which the appeal is taken, and, in chronological order, copies of only

such pleadings, petitions, motions and all interlocutory orders as are related to the appealed order or judgment and necessary for the proper understanding of the issue involved.'

but, also, to add, at the end thereof, the 'clause:

'together with such data as will show that the appeal was perfected on time.'

"Obviously, this amendment would become useless and its purpose completely defeated, if we gave thereto the interpretation advocated by the main respondent here-in. In other words, we would have the same issues and the same waste of time that were sought to be eliminated by the amendment. Hence, our ruling in *Government vs. Antonio* (supra), which, it should be noted, was made, not in a decision, but, in a resolution, so that the public may know immediately - instead of waiting for the decision on the merits, which might require more time - the effect of said amendment, and the injurious consequences of a failure to grasp its full import could thus be minimized."³

We have consistently reaffirmed and stressed the mandatory and jurisdictional nature of the requirements contained in Sec. 6 of Rule 41 of the Rules of Court⁴ and find no reason to change our view thereon.

It may not be amiss to point out that, in making the amendment adverted to above, We have not overlooked the fact that oftentimes the record on appeal is approved without any objection on the part of the appellee, who, it has, sometimes, been urged, should be deemed to be in estoppel, in consequence of his aforementioned failure to question the appeal. This notwithstanding, We have deemed and still deem it best to maintain the aforementioned view, not only because the theory of estoppel cannot apply when all of the parties concerned are aware of the relevant facts - and the appellant as well as the trial court are supposed to know whether or not the requisite steps for the perfection of an appeal have been seasonably taken - but, also, because, otherwise, the decision or final order complained of becomes final and executory, so that the trial court has no jurisdiction to sanction an appeal therefrom and the appellate court is devoid of jurisdiction to entertain the appeal. Well-settled is the rule that the jurisdiction over a case or matter may be questioned at any stage of the proceedings. In the language of *Government v. Antonio*⁵, "the certification of the record on appeal by the trial court, after expiration of the period to appeal cannot restore the jurisdiction which has been lost."⁶

Petitioner, likewise, raises, in his brief, a number of other questions mainly affecting the merits of the case; but, in view of our conclusion on the subject of dismissal of his appeal, a determination of said other questions is unnecessary.

WHEREFORE, the resolution appealed from should be as it is hereby affirmed, with costs against herein petitioner-appellant, Celso Valera.

IT IS SO ORDERED.

Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Castro, Fernando, Teehankee, Barredo, Villamor, and Makasiar, JJ., concur.

[1] *Government v. Antonio*, L-23736, Oct. 19, 1965. Underscoring ours.

[2] L-26227-28, Oct. 25, 1966.

³ All underscoring supplied.

⁴ *DBP v. Santos*, L-26387, Sept. 27, 1966; *Atlas Consolidated Mining & Development Corp. v. Progressive Labor Asso.*, L-27125, Sept. 15, 1967; *Jocson v. Robles*, L-23433, Feb. 10, 1968; *Cadiz v. Sec. of National*

Defense, et al., L-25150, Sept. 30, 1968.

5 Supra.

6 Underscoring ours. Citing *Alvero v. De la Rosa*, 76 Phil. 428, 433.

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.