

**RAMON TUMBAGAHAN, PETITIONER, VS. COURT OF APPEALS,
TEODULO C. TANDAYAG, TIMOTEA LASMARIAS, JOSE F. DEL
ROSARIO, AND THE IISMI SUPERVISORS HOUSING ASSOCIATION,
INC., THROUGH TIB...**

G.R. No. L-32684. September 20, 1988

Ponente: GUTIERREZ, JR., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/53318ebe6c62/>

GUTIERREZ, JR., J.:

In this present petition for review on certiorari, the petitioner assails the dismissal by the Court of Appeals of his petition for mandamus to compel the trial court to give due course to his appeal. The appellate court dismissed his appeal on the ground that it was filed beyond the reglementary period to appeal.

The issue in this case is whether or not the petitioner validly terminated the services of his counsels of record -- Attys. Melvyn Salise and Jose Amarga -- such that service on them of processes and notices would no longer bind him. The resolution of this issue will also resolve the question raised in the petition whether the receipt by Atty. Amarga of the trial court's order of dismissal would start the running of the period within which the petitioner should file his appeal.

The records show that the petitioner filed two cases with the Court of First Instance of Lanao del Norte, Branch II, namely: (1) Civil Case No. 1257, for declaration of ownership and reconveyance of Lot Nos. 3050 and 3051 of the Iligan Cadastre; and (2) Cadastral Case No. IL-N-4, for the review of the decree of registration issued by the Land Registration Commission in favor of Timotea Lasmarias and cancellation of her titles to the same lots. When the cases were called for joint trial on April 10, 1968, the petitioner relieved Atty. Salise as his counsel. Atty. Salise filed his withdrawal of appearance which was approved by the court. On April 15, 1968, the cases were again called for trial. This time, the petitioner personally appeared and filed a written motion for postponement on the ground that he still had no counsel and was not ready for trial. Upon motion of the other party, the motion for postponement was denied and the court issued an order dismissing the two cases.

A copy of the order was sent to Atty. Amarga which he received on April 26, 1968. The petitioner received his copy of the order on May 17, 1968. Thereafter, he filed his motion for reconsideration. After the motion was denied, he filed a notice of appeal and record on appeal which the Court dismissed for being filed out of time, counting the period to appeal from the day Atty. Amarga received a copy of the order of dismissal.

The petitioner alleges that he had neither engaged the services of Atty. Amarga nor authorized the latter to represent him in his two cases. From an examination of the records, however, this Court finds that these allegations are without merit.

The pleadings filed with the trial court bear the names of Atty. Salise and Atty. Amarga as counsels for the petitioner. Copies of some of the pleadings of the opposing party were furnished to Atty. Amarga who received the same and signed for Atty. Salise. Such being the case, the Court of Appeals committed no reversible error in

agreeing with the trial court in its rejection of the claim that the petitioner had not even authorized the said counsel to represent him and to take part in the conduct of the case.

As stated by the Court of Appeals:

"The only issue raised in petitioner's petition for mandamus is whether or not petitioner's appeal from the order dismissing his complaint in Civil Case No. 1257 was perfected on time.

"The resolution of the issue depends upon a determination of the date when services of notice of the order of April 15, 1968, was legally effected upon petitioner. Was service made on April 26, 1968, when Atty. Jose Amarga actually received a copy of the order of April 15, 1968, as held by the respondent court and maintained by private respondent Lasmarias? Or on May 17, 1968, when petitioner actually received a copy of said order, as contended by petitioner? Or on the date Benjamin Sta. Maria received the other copy of said order?

"At the outset we can eliminate for consideration the date Mr. Sta. Maria received a copy of said order of dismissal for there is nothing in the record to show that Mr. Sta. Maria was authorized by petitioner to receive the latter's mail.

"Petitioner alleges that Atty. Jose Amarga is not his counsel, and that he has never engaged the services of said lawyer and has not authorized said lawyer to represent him in Civil Case No. 1257 or Cadastral Case No. II-N-4, and that his counsel in said cases was Atty. Melvyn Salise only.

"The record, however, negates, petitioner's allegations. Petitioner's answer to the counterclaim of private respondents del Rosario and the IISMI Supervisors Housing Association, Inc. was filed by Attys. M. Salise and J. Amarga and signed by Atty. Jose B. Amarga (p. 14, record on appeal). This fact sufficiently shows that Atty. Jose B. Amarga was one of the counsel for petitioner in said cases.

"When Atty. Melvyn T. Salise filed his motion to withdraw as counsel for petitioner, he merely stated that petitioner had terminated his legal services and that he was withdrawing as such counsel. There was no indication in said motion that petitioner had likewise discharged Atty. Amarga as his counsel or that Atty. Amarga was also withdrawing as counsel for petitioner. Therefore, Atty. Amarga continued to be the counsel for petitioner.

"There is another clear indication to show that petitioner had the assistance and services of legal counsel even after Atty. Salise had withdrawn as his counsel. When the cases were called for hearing on April 15, 1968, petitioner personally filed a motion captioned 'Motion For Longer Time To Prepare For Trial.' This motion is quite long and raises legal points which only a lawyer can be conversant with. We quote with approval respondent court's observation on this point.:

"On the other hand, the court is of the observation and belief that the motion under consideration could not have been prepared by Ramon Tumbagahan himself, who is not a lawyer, but prepared by a lawyer who is afraid to show his face before the court by not signing the motion himself, as counsel for Ramon Tumbagahan, for reason only known to him and to Ramon Tumbagahan, and apparently to deceive the court to believe the allegation of Ramon Tumbagahan that he has not until the present, retained the services of counsel in order to secure the postponement of the trial of the above cases to the prejudice of the oppositors and defendants." (Record on Appeal, p. 65)

"Petitioner having been represented by counsel, service of a copy of the order of April 15, 1968, was legally effected upon him on the date Atty. Amarga, his remaining counsel of record, actually received said copy, i.e., on April 26, 1968. The Supreme Court and this Court have invariably adhered to the rule that, where a party is represented by counsel, service of notices must be made upon counsel and not upon the party personally. Service upon counsel is sufficient and binding upon the party (*Perez v. Ysip*; 81 Phil. 218; *Hernandez v. Clapis*, 87 Phil. 437; *Tanpinco v. Lozada*, L-17335, January 31, 1962; *Valdez v. Valdez*, CA-G.R. No. 28393, May 24, 1962).

This rule is mandatory and service of notice upon the party personally is not only superfluous but also legally ineffective; notice given to a party personally is not notice in law (*Chaivani v. Tancinco*, 90 Phil. 862; *Perez v. Araneta*, L-11788, May 16, 1958; *Cabili v. Badelles*, L-17786, September 29, 1962; *Capicon v. Abbas*, CA-G.R. No. 16870-R, 52 O.G. 6960; *Aseniero v. Fernandez*, CA-G.R. No. 23527-B, May 22, 1962." (Rollo, pp. 14-18)

This Court, therefore, affirms the appellate court's findings that Atty. Amarga was one of the counsels for petitioner and that he remained as the petitioner's counsel after Atty. Salise withdrew from the case and was discharged by the court.

There is a need to observe the legal formalities before a counsel of record may be considered relieved of his responsibility as such counsel (*Cubar v. Mendoza*, 120 SCRA 768). The withdrawal as counsel of a client, or the dismissal by the client of his counsel, must be made in a formal petition filed in the case (*Baquiran v. Court of Appeals*, 2 SCRA 873, 878). In this case, the termination of the attorney-client relationship between the petitioner and Atty. Salise does not automatically sever the same relations between the petitioner and Atty. Amarga. Only Atty. Salise's dismissal was made of record. None was made with regard to the other counsel.

The attorney-client relation does not terminate formally until there is a withdrawal made of record; at least so far as the opposite party is concerned, the relation otherwise continues until the end of the litigation (*Visitacion v. Manit*, 27 SCRA 523). Unless properly relieved, the counsel is responsible for the conduct of the case (*Cortez v. Court of Appeals*, 83 SCRA 31).

WHEREFORE, the petition is hereby DISMISSED for lack of merit. The questioned decision of the Court of Appeals is AFFIRMED.

SO ORDERED.

Fernan, C.J., (Chairman), Feliciano, Bidin, and Cortes, 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.