

**DIONISIO PALTENG, DIONISIO VALDEZ, ANDRES CALIGUIRAN,
REGIDOR BASILIO, ERNESTO BRITOS, AND SIMPLICIO CADIENTE,
PETITIONERS, VS. THE HONORABLE JUSTICES OF THE COURT OF
APPEALS (S...***G.R. Nos. L-25739 & L-25886. January 31, 1969*

Ponente: REYES, J. B. L., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/65003af50105/>**REYES, J. B. L., J.:**

Petitions for review of the resolutions of the Court of Appeals, dismissing the undocketed cases Nos. 1174 and 1204, CFI, Isabela, entitled "Florentina Respicio vs. Dionisio Palteng, et al.", for failure of therein defendants to pay the docket fees, and denying said defendants' motion for reconsideration of the appellate court's dismissal order.

It may be gathered from the pleadings herein submitted that petitioners, Dionisio Palteng, et al., were the defendants in two separate ejectment cases originally filed in the Justice of the Peace Court of Gamu, Isabela, by Floren-tina Respicio and Rosa Mallabo. Receiving an unfavorable verdict, defendants (through attorney Pacifico Capuchino) appealed to the Court of First Instance of Isabela where the two cases, docketed as Civil Cases Nos. 1174 and 1204, were jointly tried de novo.

On 31 May 1962, judgment was rendered on the two cases, ordering the defendants once more (1) to vacate the lands subject of the actions; (2) defend-ant Dionisio Palteng to pay damages to the plaintiffs for the produce of the land that the latter failed to receive since 1957; and (3) all of them to pay attorneys' fees.

Defendants in due time notified the trial court of their intention to appeal the decision to the Court of Appeals. And, on 25 August 1962, the notice of appeal, appeal bond and record on appeal, submitted for the de-fendants by Atty. Teodulo E. Mirasol, were approved. Accordingly, the records of the cases were transmitted to the appellate court.

On 20 July 1965, however, the Court of Appeals ordered the dismissal of the two cases for failure of defendants to pay the necessary docketing fees, notwithstanding the Court's requirement therefor. When sometime later the dismissal order came to the knowledge of Atty. Mirasol, who allegedly was not notified thereof, the latter made inquiries, and it was found out that the Court of Appeals' notice to pay the fees had been sent to Atty. Pacifico T. Capuchino, who was defendants' counsel of record in the trial court. Thereupon, defendants moved for reconsideration of the resolution of dismissal of the Court of Appeals, and, upon its denial, the present petition was filed.

In claiming that the dismissal of their appeal constituted a grave abuse of discretion by the Court of Appeals, petitioners contend that the service of notice to pay the docket fees on Atty. Capuchino (who must have failed to inform the defendants of the requirement) was ineffective and not binding on them, because such notice should have been served upon Atty. Mirasol, who signed and submitted the notice of appeal, appeal bond and record on

appeal. In other words, it is the contention of petitioners that, for purposes of the appeal, it is Atty. Mirasol who should have been considered the counsel of record and upon whom notices and processes should have been served.

There is no merit to this argument. For it is not denied that Atty. Capuchino was petitioners' counsel of record in the trial court; and that while it is true that it was Atty. Mirasol who filed the notice of appeal, appeal bond and the record on appeal, it is equally a fact that there had been no formal relief of Atty. Capuchino as counsel for the defendants (petitioners) and no formal substitution by Atty. Mirasol. The situation is that, on record, defendants-appellants stood re-presented by two lawyers who, in view of the absence of notification to the contrary, are considered their attorneys in the appeal (Section 2, Revised Rule 46). Considering that, where a party is represented by two attorneys, service of notice or pleading on either of them is sufficient to bind such party,[1] there was no abuse of discretion in the Court of Appeals' ruling that there had been proper and adequate notice to defendants (petitioners) to pay the docket fees, a requirement that they failed to observe. And as failure to pay the docket fee is a ground for dismissal of an appeal,[2] the Court of Appeals clearly acted correctly in issuing the resolutions in question.

If Atty. Mirasol had been engaged to replace Atty. Capuchino, the provisions of Section 2, Rule 46, and of Section 26, Rule 138, should have been complied with:

"SEC. 2. Attorneys and guardians. - Attorneys and guardians ad litem of the respective parties in the court below shall be considered as the attorneys and guardians of the same parties respectively in the Court of Appeals. When others are appointed notice thereof shall be served immediately on the adverse party and filed with the court."

x x x x x x x x x x x x x x

"SEC. 26. Change of attorneys. - An attorney may retire at any time from any action or special proceeding, by the written consent of his client filed in court. He may also retire at any time from an action or special proceeding, without the consent of his client, should the court, on notice to the client and attorney, and on hearing, determine that he ought to be allowed to retire. In case of substitution, the name of the attorney newly employed shall be entered on the docket of the court in place of the former one, and written notice of the change shall be given to the adverse party.

"A client may at any time dismiss his attorney or substitute another in his place, but if the contract between client and attorney has been reduced to writing and the dismissal of the attorney was without justifiable cause, he shall be entitled to recover from the client the full compensation stipulated in the contract. However, the attorney may, in the discretion of the court, intervene in the case to protect his rights. For the payment of his compensation the attorney shall have a lien upon all judgments for the payment of money, and executions issued in pursuance of such judgment, rendered in the case wherein his services had been retained by the client."

WHEREFORE, finding no error in the disputed resolutions of the Court of Appeals, and without prejudice to whatever action may lie against the attorneys, these petitions are dismissed, with costs against the petitioners.

Concepcion, C.J., Dizon, Makalintal, Zaldivar, Sanchez, Castro, Fernando, Capistrano, Teehankee, and Barredo, JJ., concur.

[1] Dujon vs. Villarosa, 92 Phil. 400; Ortega vs. Pacho, 98 Phil. 618; Rodriguez vs. Fernandez, 101 Phil. 612; Damaso vs. Arieta, L-18879, 31 January 1963.

[2] Dorego, et al. vs. Perez, et al., L-24922, 2 January 1968, 22 SCRA 8.

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.