

**J. M. TUASON & CO., INC., PLAINTIFF-APPELLEE, VS.
RAYMUNDO FAMILARA, DEFENDANT, CORNELIO S. RUPERTO,
RESPONDENT-APPELLANT.**

G.R. No. L-24934. September 28, 1968

Ponente: FERNANDO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/6b4864c9a72d/>

FERNANDO, J.:

Respondent-appellant, counsel of defendant Raymundo Familiar before the lower court,[1] was found guilty by the then Judge Hermogenes Caluag of contempt of court "for hurling false and malicious charges against it in an order dated October 16, 1964. The punishment imposed is a fine of P500.00.[2] On November 12, 1964, respondent Ruperto filed a motion for reconsideration of the above order holding him for contempt.[3] Such motion for reconsideration was denied by the lower court in an order of December 7, 1964 as a result of which he filed a notice of appeal to this court on December 15, 1964.[4] In an order of January 27, 1965, the lower court denied the appeal for having been filed outside the reglementary period.[5] There was a motion for the reconsideration of the above order under date of March 22, 1965,[6] but the new presiding Judge, the Honorable Placido C. Ramos, denied each motion on the ground that the court was without power "to set aside the order of October 16, 1964, because of its finality, * * *." [7] From such order of denial, a notice of appeal to this Court was filed on April 28, 1965.[8]

As early as August 25, 1965, a motion to dismiss appeal was filed by petitioner-appellee J. M. Tuason & Co., Inc. In such motion, it was recited that respondent-appellant Ruperto received the order of October 16, 1964 on October 26, 1964. It was not until November 12, 1964 that he filed a motion for its reconsideration. As noted such motion was denied for lack of merit.[9] Then, as above noted, came respondent-appellants notice of appeal which was denied in an order of January 27, 1965, wherein the lower court categorically stated that as he only had up to November 10, 1964, copy of the order finding him guilty of contempt having been served on him on October 26, 1964, the appeal had to be denied as it was filed outside the reglementary period.

It would appear, therefore, that the procedural question raised by petitioner-appellee possesses merit. Section 10 of Rule 71 is Categorical. Thus: "The judgment or order of a Court of First instance made in a case of contempt punished after written charge and hearing may be reviewed by the Court of Appeals or the Supreme Court, but execution of the judgment or order shall not be suspended until a bond is filed by the person in contempt, in an amount fixed by the Court of First Instance, conditioned that if the appeal be decided against him he will abide by and perform the judgment or order. The appeal may be taken as in criminal cases."

It is clear, therefore, that the appeal may be taken as in criminal cases necessarily resulting in the periods provided for such type of litigations being applicable. What is that period? The law is unmistakable Thus: "An appeal must be taken within fifteen (15) days from promulgation or notice of the judgment or order appealed from. This period for perfecting an appeal shall be interrupted from the time a motion for new trial is filed until notice of the order overruling the motion shall have been served upon the defendant or his attorney.[10]

The computation made by both the lower court and petitioner-appellee is correct. The order finding respondent-appellant guilty of contempt having been received on October 26, 1964, the 15-day period ended on November 10, 1964. It was not until November 12, 1964 that he filed a motion for reconsideration. It was much too late. Due to failure to do so within the time allowed by law, the order finding him guilty of contempt assumed finality. It could no longer be the subject of an appeal.

WHEREFORE, the appeal from the order of October 16, 1964, is dismissed. Without pronouncement as to costs.

Concepcion, C.J., Reyes, J.B.L., Makalintal, Sanchez, Castro, Angeles, and Capistrano, JJ., concur.
Dizon and Zaldivar, JJ., on official leave.

[1] Civil Case No. Q-4970, Court of First Instance of Rizal, Quezon City, Branch IV.

[2] Record on Appeal, pp. 37-38.

[3] Ibid, pp. 38-43.

[4] Ibid, p. 44.

[5] Ibid. p. 49.

[6] Ibid, p. 56.

[7] Ibid, pp. 62-63.

[8] Ibid, pp. 63-64.

[9] Ibid, p. 44.

[10] Section 6 Rule 122 of the Rules of Court.

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.