

**FRANCISCA DELA CRUZ AND AURELIO DELA CRUZ,
PLAINTIFFS-APPELLANTS, VS. FILOMENA DELA CRUZ, JUANITA
DELA CRUZ AND HERMINIGILDO DELA CRUZ,
DEFENDANTS-APPELLEES.**

G.R. No. L-48697. April 15, 1988

Ponente: GANCAYCO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/6d3cd3fc7b68/>

GANCAYCO, J.:

In this appeal, the issue raised is the completeness of the service by registered mail of an order of the trial court denying the motion for reconsideration of its judgment.

In Civil Case No. U-649 of the Court of First Instance of Pangasinan, Branch IX, Urdaneta, a judgment was rendered on June 1, 1965. A copy of the judgment was sent by registered mail to the defendants' counsel of record, Atty. Antonio M. Belen who received said copy on August 5, 1965. Atty. Belen filed a motion for reconsideration by registered mail which was posted on August 27, 1965 but which was received by the trial court on August 30, 1965. In an order of September 21, 1965 the motion for reconsideration was denied, a copy of which was sent by registered mail on September 30, 1965 to said Atty. Belen at his given address at Dagupan City. It was received at the post office of Dagupan City on October 1, 1965. However, said registered mail containing the order of September 21, 1965 was returned to the trial court (sender) and was received at the post office of Urdaneta on November 3, 1965.

On the wrapper or envelope of the returned order of September 21, 1965 are annotations consisting of "R & S" and "unclaimed" and a stamped box with the wordings of "2nd notice" and "Last Notice" printed in that order, each followed by a check mark indicating that the registered mail was returned to sender because it was unclaimed.

The record also shows that on November 28, 1965 a "2nd true copy" of the order dated September 21, 1965 was sent by registered mail to Atty. Antonio M. Belen and the registry return card thereof shows that a certain "N.R. Belen" received the mail on January 5, 1966.

On January 2, 1976, plaintiffs filed a complaint for the revival of the judgment alleging that the judgment became final and executory on January 23, 1966, on which date plaintiffs' right of action accrued, so that the complaint was filed within the ten (10) year reglementary period. A motion to dismiss the complaint was filed by defendants on the ground that the judgment sought to be revived can no longer be enforced on the ground of prescription under Article 1144 of the Civil Code.

In an order of March 22, 1976, the trial court granted the motion to dismiss on the ground of prescription finding the judgment to have become final and executory on November 23, 1965.

In this appeal the plaintiffs now interpose the following assignment of errors:

“I

THE LOWER COURT ERRED IN DISMISSING THE COMPLAINT FOR REVIVAL OF JUDGMENT ON THE GROUND OF PRESCRIPTION OF ACTION.

II

THE LOWER COURT ERRED IN CONCLUDING THAT THE DECISION IN CIVIL CASE NO. U-649 BECAME FINAL AND EXECUTORY ON NOVEMBER 23, 1965 AND NOT ON JANUARY 13, 1966 FOR PURPOSES OF DETERMINING THE DATE THE DECISION BECAME FINAL FOR COMPUTING THE PRESCRIPTIVE PERIOD OF FILING THE ACTION FOR REVIVAL OF JUDGMENT."

The appeal is impressed with merit.

Section 8, Rule 13 of the Rules of Court provides as follows:

"SEC. 8. Completeness of service.- Personal service is complete upon actual delivery. Service by ordinary mail is complete upon the expiration of five (5) days after mailing, unless the court otherwise provides. Service by registered mail is complete upon actual receipt by the addressee; but if he fails to claim his mail from the post office within five (5) days from the date of first notice of the postmaster, service shall take effect at the expiration of such time."

When the service is to be made by registered mail, the service is deemed complete and effective upon actual receipt by the addressee as shown by the registry return card. The exception is that when the addressee does not claim his mail within five (5) days from the date of the first notice of the postmaster, then the service takes effect at the expiration of such time. The fair and just application of that exception depends upon the conclusive proof that the first notice was sent by the postmaster to the addressee.[1]

In the present case there is no proof of the actual receipt of the notice of the registered mail by counsel for the defendants, Atty. Belen. The trial court merely relied on the notations on the wrapper or envelope of the returned order of September 21, 1965 consisting of "R & S", "unclaimed" and the stamped box with the wordings "2nd notice" and "last notice" tending to indicate that the registered mail was returned to sender because it was unclaimed inspite of the notices sent by the postmaster to the addressee therein. The trial court, on the basis of said notations, assumed that the first notice of the postmaster must have been received by defendants on or before November 3, 1965, the date when the order in the envelope was returned to the Urdaneta Post Office. This finding of the court a quo is untenable.

In *Barrameda vs. Castillo*,[2] this Court held:

"Therefore, to obviate injustice, it is incumbent upon a party, who relies on constructive service or who contends that his adversary was served with a copy of a final order or judgment upon the expiration of five days from the first notice of registered mail sent by the postmaster to prove that that first notice was sent and delivered to the addressee. A certification from the postmaster would be the best evidence of that fact (*Grafil vs. Feliciano*, L-27156, June 30, 1967, 20 SCRA 616). The mailman's testimony may also be adduced to prove that fact, as was done in *Aldecoa vs. Hon. Arellano and Siguenza*, 113 Phil. 75, 78.

"The postmaster's certification as to the sending of the first notice 'should include the data not only as to whether or not the corresponding notices were issued or sent but also as to how, when and to whom the delivery thereof was made.' (*Hernandez vs. Navarro*, L-28296, November 24, 1972, 48 SCRA 44, 64, per Barredo, J.).

"As stressed by Justice Barredo in a recent case, 'there must be clear proof of compliance with the postal regulations governing the sending and receipt of the notice referred to in' section 8 of Rule 13 (*Vecino vs. Court of Appeals*, L-38612, March 29, 1977). The mere exhibition in court of the envelope containing the

unclaimed mail is not sufficient proof that a first notice was sent.

"Note that in a certain case a first notice was sent but it was received by the addressee's eleven-year old child who did not deliver it to the addressee himself. It was held that to apply the presumption in that case and to insist on constructive service would work an injustice rather than promote justice (*Cabuang vs. Hon. Bello*, 105 Phil. 1135, 1138).

"In the instant case, there is no evidence that the first notice was sent to Barrameda's lawyer and that it was delivered to him or should have been received by him. The envelope containing the unclaimed mail was presented in court. The face of the envelope contains the notation 'Returned to sender. Reason: Unclaimed'. Above the stamp, on the back of the envelope, with the legend 'City of San Pablo, Philippines, Jan. 29, 1966', are written the dates, '2-3-66 and 2-9-66'. Written also on the back of the envelope are the following: 'R to S, notified 3/3/66'.

"Relying on those notations on the envelope, the trial court literally and rigidly applied the presumption as to constructive service. It did not require appellee Castillo to present the postmaster's certification that a first notice was sent to Barrameda's lawyer and that the notice was received by the latter.

"Under those circumstances, the trial court's order dismissing Barrameda's appeal is fraught with injustice." [3]

Barrameda applies squarely to this case. The order of the trial court of March 22, 1976 dismissing the complaint on the ground of prescription has no lawful basis.

Considering that it was only on January 5, 1966 that the copy of the order of September 21, 1965 denying the motion for reconsideration was received by counsel for the defendants, so that defendants had 20 days left before the judgment will become final and executory, as they alleged to have received a copy of the decision on August 17, 1965 and filed a motion for reconsideration thereof on August 27, 1965, the filing of the complaint for revival of judgment on January 2, 1976 was well within the ten (10) year reglementary period as provided for by law. [4]

WHEREFORE, the appealed order of March 22, 1976 is hereby REVERSED and SET ASIDE and another order is hereby rendered denying the motion to dismiss the complaint. Defendants are given fifteen (15) days from notice of this judgment within which to file an answer to the complaint and the trial court is directed to terminate the proceedings in this case with deliberate dispatch. This judgment is immediately executory and no motion for extension of time to file a motion for reconsideration shall be entertained.

SO ORDERED.

Teehankee, C.J., Narvasa, Cruz, and Griño-Aquino, JJ., concur.

[1] *Barrameda vs. Castillo*, 78 SCRA 1, 4-5; *Hernandez vs. Navarro*, 48 SCRA 44, 64-65; *Pialago vs. Generosa*, 73 Phil. 654; *Islas vs. Platon*, 47 Phil. 162; *Palisoc vs. Locsin*, 57 Phil. 322; *Yangco vs. Milan*, 57 Phil. 761.

[2] *Supra*.

[3] *Supra*, at 4-5.

[4] Article 1144 and 1152 of the Civil Code.

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.