

LUZON STEVEDORING CORPORATION, PETITIONER, VS. COURT OF APPEALS AND RALS CONSTRUCTION, INC., RESPONDENTS.

G.R. No. L-27746. July 31, 1970

Ponente: FERNANDO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/950fea516510/>

FERNANDO, J.:

Petitioner Luzon Stevedoring Corporation would assail a resolution of respondent Court of Appeals of April 12, 1967 denying its motion to dismiss an appeal of respondent Rals Construction, Inc. on the ground that the record on appeal, on its face, failed to show that it was perfected within the period fixed by the Rules of Court as well as its resolution of May 31, 1967 denying its motion for reconsideration. There was ample justification then for this special civil action for certiorari. As pointed out in such motion and reiterated in its motion for reconsideration, this Court had, without exception, considered as fatally defective appeals vitiated by a failure to comply with that specific command of the Rules of Court. Respondent Court was thus called upon to respect, certainly not to disregard, what this Court had time and time again reiterated. It was not duly mindful of such an obligation. This petition, then, to set aside respondent Court's orders complained of possesses merit.

In this special civil action for certiorari filed with us on July 7, 1967, Petitioner, after the usual allegations as to parties, referred to its motion to dismiss appeal of respondent Rals Construction, Inc., then with respondent Court, as its record on appeal failed to show on its face that the appeal, was perfected within the period fixed by the Rules of Court. The private respondent, asked to comment on said motion, admitted that its record on appeal lacked the necessary data as to when the decision was received by its counsel for the purpose of determining whether or not its appeal was perfected on time. Nonetheless, on April 12, 1967, respondent Court of Appeals, acting on petitioner's motion to dismiss appeal resolved to deny the same. There was, on May 10, 1967, a motion for reconsideration of such resolution. Respondent Court did not see any occasion to change its stand. Its original ruling was maintained. Hence this petition for certiorari.

In its answer of August 11, 1967, respondent Rals Construction, Inc., while admitting that its record on appeal did not show on its face when the decision thus elevated to the Court of Appeals was received by its counsel for the purpose of determining whether or not such an appeal was timely, would submit, however, that it was so filed within the reglementary period as shown by the certification of the City Sheriff of Manila, which fact was given due consideration by respondent Court in denying the motion to dismiss appeal. From its view of the case, there was a sound and judicious exercise of what it considered to be a discretion vested in respondent Court under the above circumstances. As a matter of fact, the denial was characterized by it as conforming to "the highest tradition of judicial statesmanship."

The case was set for oral argument on August 16, 1968, but both parties decided to submit memoranda instead. Petitioner did submit a memorandum of arguments and authorities, but really more of the latter, citing the previous cases relied upon of *Government v. Antonio*,^[1] *Development Bank of the Philippines v. Santos*,^[2] *J. Antonio Araneta v. Madrigal & Co., Inc.*,^[3] and *Atlas Consolidated Mining & Development Corporation v. Progressive Labor Association*.^[4] It is its contention that respondent Court did err in departing from the

established rulings laid down in the above cases, thus "acting without or in excess of its jurisdiction in which case certiorari would lie." [5] A realization of the force inherent in the above decisions must have led private respondent, in its memorandum, to limit their applicability when the appellate court "is at a loss to determine whether or not the appeal was perfected on time on the basis of the record on appeal." [6] It continued: "There can be no doubt that the rule was intended to appraise the appellate court to which the appeal is taken of the timeliness of the appeal. Where therefore, as in this case, the appellate court is convinced that the appeal was perfected on time, there is neither rhyme nor reason, logic or persuasion to close its eyes to the reality of the perfection of the appeal and allow itself to indulge in technicality which the rules itself abhors. Were the court to do that, it would be placing premium on language instead of substance, purpose and reason." [7]

If this were a new question, the element of persuasiveness in the above summation of private respondent cannot be completely ignored. Perhaps respondent Court could be considered as not completely lacking in justification in denying the motion to dismiss. The crux of the controversy, however, is the failure of respondent Court to accord deference to a doctrine repeatedly upheld by this Court. It would not be inaccurate, then, to assert that it did abuse its discretion and abused it gravely. We thus find for petitioner.

1. It is required by the rules of Court that the record on appeal should contain such data as will show that it was perfected on time, a failure to do so being a ground for its dismissal. [8] From *Government of the Philippines v. Antonio*, [9] the resolution dismissing the appeal being promulgated on Oct. 19, 1965, it has been the constant holding of this Court that dismissal will be the consequence of a failure to comply with the above procedural requirement. As set forth by Justice J. B. L. Reyes for a unanimous Court in the Antonio resolution: "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 appellant, 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). 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 (*Alvero vs. De la Rosa*, 76 Phil. 428, 433, and cases cited). The principle is confirmed by Rule 50, section 1, supra (a), heretofore quoted." [10] It sufficed for this Court, speaking through Justice Dizon in *Development Bank of the Philippines v. Santos*, [11] in dismissing the appeal, again on that ground, to refer to the above excerpt.

Then, in *J. Antonio Araneta v. Madrigal & Co., Inc.*, [12] an attempt was made to limit the scope of the Antonio ruling by the allegation that even if the record on appeal did not comply, if in fact there was a perfection within the reglementary period, such a rule need not be followed. Nonetheless, we adhered to the Antonio doctrine for, as noted by Chief Justice Concepcion, who penned the opinion: "Obviously, this amendment would become useless and its purpose completely defeated, if we gave thereto the interpretation advocated by the main respondent herein. 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* * * *, 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." [13] Subsequent to the filing of the memoranda of both parties in this litigation, adherence to the above doctrine was again manifested in the two cases of *Jocson v. Robles* [14] and *Cadiz v. Secretary of National Defense*. [15]

2. The merit of the petition is thus apparent. The action taken by respondent in denying the motion to dismiss is difficult to explain, much less justify. It is not as if its attention to the above decisions were not called. Both the Antonio and the Santos rulings were included as annexes to such motion. Nonetheless, the minute resolution was apparently oblivious of the force of such decisions; it did not even refer in the most casual manner to their peremptory character. The fate reserved for them was one of studied indifference and neglect. The motion for reconsideration was sought to be reinforced by the addition of the Araneta and the Shell Co. decisions. It was all in vain. Respondent Court could not be budged from the stand taken by it.

The spirit of initiative and independence on the part of men of the robe may at times be commendable, but certainly not when this Court, not once but at least four times, had indicated what the rule should be. We had spoken clearly and unequivocally. There was no ambiguity in what we said. Our meaning was clear and unmistakable. We did take pains to explain why it must be thus. We were within our power in doing so. It would not be too much to expect, then, that tribunals in the lower rungs of the judiciary would, at the very least, take notice and yield deference. Justice Laurel had indicated in terms too clear for misinterpretation what is expected of them. Thus: "A becoming modesty of inferior courts demands conscious realization of the position that they occupy in the interrelation and operation of the integrated judicial system of the nation." [16] In the constitutional sense; respondent Court is not excluded from such a category. [17] The grave abuse of discretion is thus manifest.

WHEREFORE, the writ of certiorari is granted, and the resolution of respondent Court of April 12, 1967 denying petitioner's motion to dismiss as well as its resolution of May 31, 1967 denying petitioner's motion for reconsideration, are set aside. The appeal taken by respondent Rals Construction, Inc. in CA-GR No. 28297R is hereby dismissed. With costs.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Castro, Barredo, and Villamor, JJ., concur.
Teehankee, J., in the result.

[1] L-23736, Oct. 19, 1965, 15 SCRA 119.

[2] L-26387, Sept. 27, 1966, 18 SCRA 113.

[3] L-26227-28, Oct. 25, 1966, 18 SCRA 446.

[4] L-27125, Sept. 15, 1967, 21 SCRA 110.

[5] Petitioner's Memorandum of Arguments and Authorities, p. 9.

[6] Memorandum for Respondent, p. 2.

[7] Ibid.

[8] The specific sections of the Rules of Court follow: "[Rule] 41, section 6. Record on appeal; form and contents thereof. - 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 for judgment and necessary for the proper understanding of the issue involved, together with such data as will show that the appeal was perfected on time. [Rule] 50, section 1. Grounds for dismissal of appeal. - An appeal may be dismissed by the Court of Appeals, on its own motion or on that of the appellee, on the following grounds: (a) Failure of the record on appeal to show on its face that the appeal was perfected within the period fixed by these rules; * **."

[9] L-23736, Oct. 19, 1965, 15 SCRA 119.

[10] Ibid, pp. 121-122.

[11] L-26387, Sept. 27, 1966, 18 SCRA 113.

[12] L-26227-28, Oct. 25, 1966, 18 SCRA 446.

[13] Ibid, p. 450. The Araneta decision was cited with approval in Atlas Consolidated -Mining & Development Corp. v. Progressive Labor Association, L-27125, Sept. 15, 1967, 21 SCRA 110.

[14] L-23433, Feb. 10, 1968, 22 SCRA 521.

[15] L-25150, Sept. 30, 1968, 25 SCRA 419.

[16] People v. Vera, 65 Phil. 56, 82 (1937).

[17] "The judicial power shall be vested in one Supreme Court and in such inferior courts as may be established by law." Art. VIII, sec. 1, Constitution.

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.