

EMILIO GREGORIO, PETITIONER, VS. THE HON. COURT OF APPEALS, SPOUSES CORPUZ PARAMI AND LUCIANA PARAMI, AND THE REGISTER OF DEEDS OF RIZAL, RESPONDENTS.

G.R. No. L-43511. July 28, 1976

Ponente: MARTIN, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/9d804d8f4128/>

MARTIN, J.:

The Appellate Court's dismissal of petitioner's appeal in CA-G.R. No. 56015-R against private respondents for failure to file brief within the extended period, after denying petitioner's third motion for extension, is assailed as a grave abuse of discretion in this petition for review on certiorari.

Petitioner Emilio Gregorio was the plaintiff in a civil suit for annulment of deed of sale and Torrens title, with damages, against private respondents, Spouses Corpuz Parami and Luciana Parami, before the Court of First Instance of Rizal. The action involved a 57,491-square meter land situated at Las Pinas, Rizal. Petitioner Gregorio dis-owned his thumbmark on a deed of sale supposedly conveying the land to the Spouses Corpuz Parami and Luciana Parami for the sum of P40,000.00 sometime in 1967. An adverse judgment was rendered against him, and so, he elevated the case to the Court of Appeals.

On April 24, 1975, petitioner Gregorio moved for an extension of time to file his brief for the reason that his counsel could not file the printed brief on April 25, 1975 due to pressure of previous professional work and engagements. Respondent Appellate Court granted the motion and gave petitioner ninety (90) days from April 25, 1975 within which to file the brief, warning that no further extension would be allowed.

On July 24, 1975, petitioner's daughter, Paz Gregorio, moved for another extension, representing that their lawyer withdrew from the case because of their inability to pay his fees. For such reason, they had still to look for another lawyer to take his place. Their father, petitioner Emilio Gregorio, is already old (being 100 years of age) and blind and that they had no sufficient funds to meet the expenses of a printed brief.[1]

Correspondingly, respondent Appellate Court allowed petitioner until August 24, 1975 to file his brief with a warning that the appeal would be dismissed if no brief were filed within that period.

On August 22, 1975, petitioner, thru his daughter Paz Gregorio, again urgently moved for another extension of fifteen (15) days because the brief could not be finished within the remaining period and that they are still raising funds sufficient to retain a lawyer and to pay the costs of printing.

On August 26, 1975, or two (2) days after the lapse of the August 24th extension, petitioner filed a typewritten brief. That notwithstanding, on August 29, 1975, respondent Appellate Court denied petitioner's motion for 15-day extension and dismissed the appeal.

First and second motions for reconsideration of this resolution were filed by petitioner, but the same were denied by the Appellate Court on November 12, 1975 and March 23, 1975, respectively.

Forthwith, petitioner brought the matter to Us thru the present petition, assisted by the Citizens Legal Assistance Office of the Department of Justice.

We find the petition impressed with merits.

1. It is provided in Section 15, Rule 46 of the Revised Rules of Court that "Extension of time for the filing of briefs will not be allowed, except for good and sufficient cause, and only if the motion for extension is filed before the expiration of the time sought to be extended." This indicates that if good reasons are shown, the Appellate Court may grant as many extensions as may be asked.[2] In other words, extensions may be allowed if the following requisites are complied with: (1) the motion must state good and sufficient cause and (2) it must be filed before the expiration of the time sought to be extended. This is different from the old Code of procedure where only one extension of the time for filing briefs could be granted. Under the Revised Rules, an appellant or appellee may obtain several extensions provided, as earlier pointed out, each extension is predicated on a good and sufficient cause and the application for such extension is filed before the time sought to be extended expires.[3]

We cannot view petitioner's cause in the case at bar in seeking the 15-day extension as invalid and insufficient so as to call for a denial thereof. What impeded petitioner from meeting the demands of litigation on time was the incessant tug-and-pull of poverty, a reason not easily open to serious attack. His former counsel had abandoned him because he could not afford to pay his fees. This compounded his misery. Thereafter, he tried to raise sufficient funds to retain a new lawyer as well as to bear the expenses of the appeal. We easily discern the hardships that petitioner met, but what lurks in his mind is the alleged scheming divestiture of his property, for which he must seek the final redress. In fact, it is noted that in this present proceeding, petitioner is represented by the Citizens Legal Assistance Office, a government arm extending free legal aid to poor and destitute litigants. Likewise, We find that petitioner's motion for 15-day extension was filed before the August 24th extension expired.

2. There is no question that the allowance or denial of motions for extensions of time is mainly addressed to the sound discretion of the court. However, such discretion must be exercised "wisely and prudently, never capriciously, with a view to substantial justice." [4] The mere convenience of the courts or of the parties must be subordinated. While the periods for the filing of papers needed in the resolution of causes are admittedly fixed as a matter of public policy, which recognizes the necessity of putting an end to litigations within the shortest possible time, the same must be compatible with the right of litigants to have an opportunity to be heard and the best interest of justice.[5] What is before the court is a question of forgery in the supposed conveyance of a 57, 491-square meter land located in the residential area of Las Piñas, Rizal. Petitioner claims that the sale of the land to the Spouses Corpuz Parami and Luciana Parami is an absolute falsity. He stubbornly asserts that he never sold the land to them. Such charges are doubtless not devoid of significance. Respondent Appellate Court, therefore, grievously erred in dismissing the appeal.[6]

The Appellate Court should have reconsidered its re-solution of dismissal when it received petitioner's typewritten brief barely, two days (August 26, 1975) after the lapse of the extended period (August 24, 1975). That is commanded by the "higher interest of justice dictated by a sense of fairness with which procedural due process is identified." [7] Nothing would be lost and the right to a hearing on appeal would be accorded full respect if under the circumstances the motion were granted. More so, when it is considered that the failure of the appellant to file his brief within the allotted time does not ipso facto result in the dismissal of the appeal.[8] The Appellate Court has still that inherent power and discretion to amend whatever order it had made before in order to render substantial justice.[9]

3. The expiration of the time to file brief, unlike lateness in filing the notice of appeal, appeal bond or record on appeal is not a jurisdictional matter and may be waived by the parties.[10] Even after the expiration of the time fixed for the filing of the brief, the reviewing court may grant an extension of time, at least where no motion to dismiss has been made.[11] Late filing or service of briefs may be excused where no material injury has been suffered by the appellee by reason of the delay or Where there is no contention that the appellee's cause was prejudiced.[12] It is sufficient ground for extending the time where the delay in filing the brief was caused in part by a misunderstanding of counsel, and in part by appellant's inability, because of his poverty, to obtain the money necessary to pay the ex-penses of the appeal.[13] Similarly, where the question raised is of sufficient importance to require an examination of the record, the late filing of the brief may be forgone.[14] This is especially true, like in the case before Us, where there is no showing or assertion whatsoever of any intent to delay on the part of the appellant. Dismissal of appeals purely on technical grounds is frowned upon where the policy of the courts is to encourage hearings of appeals on their merits.[15] The rules of procedure ought not to be applied in a very rigid, technical sense; rules of procedure are used only to help secure not override substantial justice. If a technical and rigid enforcement of the rules is made, their aim would be defeated.[16]

ACCORDINGLY , the resolution of the Court of Appeals of August 29, 1975, denying petitioner's motion for extension of time to file brief and dismissing his appeal as well as its subsequent resolutions denying his motions for reconsideration are hereby reversed and set aside. Re-spondent Appellate Court is hereby ordered to reinstate petitioner's appeal in CA-G.R. No. 56015-R against private respondents herein.

No pronouncements as to costs.

SO ORDERED.

Teehankee, (Chairman), Makasiar, and Muñoz Palma, JJ., concur.

Aquino, J., concurs in a separate opinion.

[1] The motion reads:

""Kagalang-galang na Hukom:

Ako po ay nakikiusap na bigyan lang kami ng extension to file brief (appellant), sa aming kaso hanggang September 24, 1975, dahil sa binitawan po kami ng aming abogado at wala kaming ibayad. Kami'y hahanap pa po ng kanyang kapalit. Kami po ay nagmamakaawa na tulungan sa aming dalangin sa dahil walang kayang maitustos sa pagpapagawa and pagpaimprenta ng aming brief. Ang aming tatay na si Emilio Gregorio ay bulag na at hindi pa makalakad (siya ay 100 years old). Tatanawin namin malaking utang na loob ang iyong pagtulong lalong lalo na sa kaso ng aking ama."

[2] The Revised Rules of Court, Francisco, Vol. III, 572-73, 1968 ed.

[3] Comments on the Rules of Court, Moran, Vol. 2, 497, 1970 ed.

[4] *Cucio v. Court of Appeals*, L-38020, May 24, 1974, First Division, per Teehankee, J., 57 SCRA 68, quoting *Piedad v. Batuyong*, L-38024, February 28, 1974, 55 SCRA 763 and *Limon v. Candido*, L-22418, April 28, 1969, 27 SCRA 1166.

[5] *Yabut v. Ventura*, 77 Phil. 495 (1946).

[6] See *Monticines v. Court of Appeals*, L-35913, September 4, 1973, 53 SCRA 18-22.

[7] *Padasas v. Court of Appeals*, L-38071, April 25, 1974, Second Division, per Fernando, J., 56 SCRA 619.

- [8] C. Viuda de Ordoveza v. Raymundo, 63 Phil. 277-78 (1936).
- [9] Infantado v. Liwanag, L-23697, December 28, 1968, 26 SCRA 573.
- [10] Monticines v. Court of Appeals, fn. 10, 53 SCRA 14, Concurring Opinion of Justice Barredo; 5 C.J.S. 388, 459-60.
- [11] 5 C.J.S. 386, citing Wood v. Mesmer, 178 P. 314.
- [12] Espiritu v. Valerio, L-18018, Sept. 26, 1961, 3 SCRA 109; 5 Am Jur 2d 130 et seq.; Schulte v. Westborough, Inc., 172 ALR 260.
- [13] 5 C.J.S. 387, citing Niosi v. Empire Steam Laundry, 46 P. 153.
- [14] Stumpf v. Matthews, 195 F. 2d 25; Shannon v. U.S., 206 F. 2d 479; Winter v. Crowley, 374 F. ed 317 (1967) and footnotes.
- [15] Peak v. Nicholson, 143 P. 2d 79; Peebler v. Olds, 160 P. 2d 545.
- [16] McEntee v. Manotok, L-14968, Oct. 27, 1961, 3 SCRA 279; Lim Tanhu v. Ramolete, L-40098, Aug. 29, 1975, 66 SCRA 441, Second Division, per Barredo, J

CONCURRING OPINION

AQUINO, J.:

I concur. The resolution of the Court of Appeals dated March 21, 1971 provides that "in order to save time, money and effort and to attain greater efficiency in the operation of the Court, in connection with the extension of the period for filing appellant's or appellee's brief", "only one extension of ninety (90) days, or less in the discretion of the Court, from the expiration of the reglementary period shall be granted within which to file briefs in ordinary appealed cases; with the warning that upon failure to file the brief within this period the appeal will either be dismissed for failure to file appellant's brief (except when appellant is represented by an attorney de oficio) or given due course without appellee's brief for failure to file appellee's brief" (67 O.G. 2578).

That pragmatic resolution must have been triggered by the experience of the Justices of the Court of Appeals with lazy and irresponsible lawyers who pester the Court with interminable motions for extension based on the subterfuge that they could not file the brief because of the heavy pressure of other work. Some lawyers, accustomed to procrastination or the mañana habit, temporize on the preparation of their briefs and do not take seriously the deadline of the ninety-day extension. The Court of Appeals, knowing that the failure to file the brief within the ninety-day extension is in most instances due to sheer irresponsibility, wants to be strict with irresponsible lawyers.

As has been said, lawyers may be divided into three categories: the able, the unable and the lamentable. A lawyer who cannot file a brief within one hundred thirty-five (135) days (the reglementary period of forty-five days plus the extension of ninety days) belongs to the unable or lamentable class or is indolent and devoid of a sense of responsibility.

A responsible lawyer, who accepts an appealed case, can easily tell whether he will be able to file appellant's brief within the ninety-day period. If he cannot do so, then he should give up the case at once so that the client can look for a more conscientious and competent lawyer. He should heed the caveat in the resolution granting the ninety-day extension that no further extension would be granted and that the appeal would be dismissed for his

failure to file appellant's brief.

I believe that, save in exceptionally meritorious cases, like the instant case, the resolution of the Court of Appeals should be enforced; otherwise, it would become meaning-less or inutile. Its enforcement by the Court of Appeals should be upheld by this Court if no palpable injustice would be perpetrated against the appellant.

It is only in those cases where to make the appellant suffer for the negligence or skullduggery of his lawyer would result in a manifest injustice that the rule against extending the ninety-day extension should be relaxed. A line has to be drawn somewhere. Practising lawyers should toe that line or the line would be obliterated.

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.