

PEOPLE OF THE PHILIPPINES, PETITIONER, V. HON. ANGELO C. PEREZ, IN HIS CAPACITY AS THE DESIGNATED JUDGE OF REGIONAL TRIAL COURT BRANCH 35, GAPAN CITY, NUEVA ECIJA, AND RUFINO DO...

Ponente: ELBINIAS, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/a5dcafb830a0/>

ELBINIAS, J.:

Before Us is the "AD CAUTELAM MOTION FOR EXTENSION OF TIME TO FILE PETITION FOR CERTIORARI"[1] ("Motion for Extension" for brevity) filed by petitioner People of the Philippines thru the Office of the Solicitor General ("OSG" for brevity).

In the Motion for Extension[2], the OSG sought for fifteen (15) days from June 22, 2012, or until July 7, 2012, within which to file its Petition for Certiorari.

However, the rule is settled that the sixty (60)-day period within which to file a Petition for Certiorari under Rule 65 of the Rules of Court is non-extendible.[3] This is because such an extension violates Section 4, Rule 65 of the Rules of Court, as amended by A.M. No. 7-7-12-SC, which states that, among others:

"Sec. 4. When and where to file the petition. The petition shall be filed not later than sixty (60) days from notice of the judgment, order or resolution. In case a motion for reconsideration or new trial is timely filed, whether such motion is required or not, the petition shall be filed not later than sixty (60) days counted from the notice of the denial of the motion.

If the petition relates to an act or an omission of a municipal trial court or of a corporation, a board, an officer or a person, it shall be filed with the Regional Trial Court exercising jurisdiction over the territorial area as defined by the Supreme Court. It may also be filed with the Court of Appeals or with the Sandiganbayan, whether or not the same is in aid of the court appellate jurisdiction. If the petition involves an act or an omission of a quasi-judicial agency, unless otherwise provided by law or these rules, the petition shall be filed with and be cognizable only by the Court of Appeals." (Emphasis supplied)

That the sixty (60)-day period within which to file a Petition for Certiorari under Rule 65 of the Rules of Court is non-extendible is pursuant to the declaration of the Supreme Court in *Laguna Metts Corporation v. Caalam and Esguerra*, G.R. No. 185220, July 27, 2009, to wit:

"While the proper courts previously had discretion to extend the period for filing a petition for certiorari beyond the 60-day period, the amendments to Rule 65 under A.M. No. 07-7-12-SC disallowed extensions of time to file a petition for certiorari with the deletion of the paragraph that previously permitted such extensions.

XXX

If the Court intended to retain the authority of the proper courts to grant extensions under Section 4 of Rule 65, the paragraph providing for such authority would have been preserved. The removal of the said paragraph under the amendment by A.M. No. 07-7-12-SC of Section 4, Rule 65 simply meant that there can no longer be

any extension of the 60-day period within which to file a petition for certiorari.

The rationale for the amendments under A.M. No. 07-7-12-SC is essentially to prevent the use (or abuse) of the petition for certiorari under Rule 65 to delay a case or even defeat the ends of justice. Deleting the paragraph allowing extensions to file petition on compelling grounds did away with the filing of such motions. As the Rule now stands, petitions for certiorari must be filed strictly within 60 days from notice of judgment or from the order denying a motion for reconsideration." (Emphasis supplied)

Pending resolution of the OSG's Motion for Extension[4], private complainant Rosalinda Vda. De Velarde ("private complainant" for brevity), thru a private prosecutor and with the conformity of the OSG[5], filed her "Petition for Certiorari"[6] ("Petition" for brevity) on July 9, 2012. The Petition was also not filed on behalf of the OSG.

Private complainant's Petition[7] was nevertheless belatedly filed on July 9, 2012, and was therefore dismissible. Records revealed that private complainant received a copy of the Order[8] of the Regional Trial Court, Branch 35 of Gapan City dated April 11, 2012 on April 23, 2012.[9] Thus, private complainant had until June 22, 2012 to file a Petition for Certiorari.

Even if private complainant's delayed filing of the Petition for Certiorari[10] could be considered as an exception to the rule[11] that a Petition for Certiorari should be filed within the non-extendible period of sixty (60) days, still, such filing was not perfected due to private complainant's failure to pay the required docket and other lawful fees with this Court. Private complainant was not exempted from the payment of such fees, because she was no longer being represented by the OSG, which was exempted from paying docket and other lawful fees when the Petition[12] at bench was filed

. The rule is entrenched that the full payment of docket fees "is not only mandatory, but also jurisdictional"[13]. Thus, "[w]ithout such payment, the court does not acquire jurisdiction over the subject matter of the action and the decision or final order sought to be appealed from becomes final and executory"[14]. That this is the consequence is in accordance with the following pronouncement of the Supreme Court in *Home Guaranty Corporation v. R-II Builders, Inc. and National Housing Authority*, G.R. No. 192649, March 9, 2011:

"xxx Consistent with Section 1, Rule 141 of the Revised Rules of Court which provides that the prescribed fees shall be paid in full 'upon the filing of the pleading or other application which initiates an action or proceeding', the well-entrenched rule is to the effect that a court acquires jurisdiction over a case only upon the payment of the prescribed filing and docket fees. xxx

xxx

xxx Applying the rule that 'a case is deemed filed only upon payment of the docket fee regardless of the actual date of filing in court' in the landmark case of *Manchester Development Corporation v. Court of Appeals*, this Court ruled that jurisdiction over any case is acquired only upon the payment of the prescribed docket fee which is both mandatory and jurisdictional. To temper said ruling, the Court subsequently issued the following guidelines in *Sun Insurance Office, Ltd. v. Hon. Maximiano Asuncion*, viz.:

1. It is not simply the filing of the complaint or appropriate initiatory pleading, but the payment of the prescribed docket fee, that vests a trial court with jurisdiction over the subject matter or nature of the action. Where the filing of the initiatory pleading is not accompanied by payment of the docket fee, the court may allow payment of the fee within a reasonable time but in no case beyond the applicable prescriptive or reglementary period. xxx" (Emphasis supplied; italics made in the original)

GIVEN ALL THESE, petitioner's "AD CAUTELAM MOTION FOR EXTENSION OF TIME TO FILE PETITION FOR CERTIORARI"[15] is DENIED. Moreover, private complainant's Petition for Certiorari is

DISMISSED.

SO ORDERED.

Didican (Chairman) and Paredes, JJ., concur.

[1] Rollo, pp. 2-6.

[2] Rollo, pp. 2-6.

[3] Republic of the Philippines v. St. Vincent de Paul Colleges, Inc., G.R. No. 192908, August 22, 2012.

[4] Rollo, pp. 2-6.

[5] Rollo, pp. 103-106, Manifestation of Conformity dated July 9, 2012.

[6] Rollo, pp. 9-33.

[7] Rollo, pp. 9-33.

[8] Rollo, pp. 92-94.

[9] Rollo, p. 14.

[10] Rollo, pp. 9-33.

[11] Republic of the Philippines v. St. Vincent de Paul Colleges, Inc., G.R. No. 192908, August 22, 2012.

[12] Rollo, pp. 9-33.

[13] Ruby Shelter Builders and Realty Development Corporation, vs. Hon. Pablo C. Formaran III, Presiding Judge of Regional Trial Court Branch 21, Naga City, as Pairing Judge for Regional Trial Court Branch 22, Formerly Presided By Hon. Novelita Villegas-Llaguno (Retired 01 May 2006), Romeo Y. Tan, Roberto L. Obiedo and Atty. Tomas A. Reyes, G.R. No. 175914, February 10, 2009

[14] Noli Lim vs. Angelito Delos Santos (deceased) now his Heirs, represented by Belen Delos Santos Respondents, Denia R. Adoyo, et al., Intervenors, Gloria Murillo, et al., Protestants, G.R. No. 172574, July 31, 2009

[15] Rollo, pp. 2-6.

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.