

**MACARIA ABARRIENTOS VDA. DE CAPULONG, FLORA CAPULONG
AND HON. FEDERICO ALIKPALA, IN HIS CAPACITY AS JUDGE OF THE
COURT OF FIRST INSTANCE OF MANILA, BRANCH XXII,
PETITIONERS, VS....**

G.R. No. L-30960. October 05, 1989

Ponente: CRUZ, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/ab2064cab706/>

CRUZ, J.:

The issue presented in this case is quite simple. The private respondent received a copy of the decision against it on January 4, 1969. On February 3, 1969, the last day for perfecting its appeal, it filed a motion for an extension of "at least thirty (30) days from the receipt of the Order of this Honorable Court within which to file the Record on Appeal." The late Judge Federico C. Alikpala of the Court of First Instance of Manila, who rendered the decision, issued an order on February 4, 1969, granting an extension but only for ten days and without indicating when it would commence. This order was received by the private respondent on February 7, 1969, and seven days later, on February 14, 1969, it filed the record on appeal.

The question is: Was the record on appeal filed on time that is, within the extension? Or more to the point, when should the 10-day extension start to run?

In disapproving the record on appeal, Judge Alikpala held that it had been filed out of time as the extension should have been counted immediately after the last day of the 30-day period for appeal, to wit, February 3, 1969. The 10-day extension expired on February 13, 1969; hence, the record on appeal was filed one date late.

Its motion for reconsideration having been denied, the private respondent went to the Court of Appeals in a petition for certiorari. That court sustained the private respondent and held that the extension should have been counted from the date the order granting the 10-day extension was received by the movant, to wit, February 7, 1969.[1] As the record on appeal was filed on February 14, 1969, within the extension granted, it should not have been disapproved for tardiness.[2]

The petitioner is now before us, arguing that the respondent court committed grave abuse of discretion in reversing the trial judge. Its reasons are that: (a) the judgment of the trial court had already become final and executory as of February 4, 1969; (b) the extension granted by Judge Alikpala on that date was null and void because he had already lost jurisdiction over the case; (c) even if the extension had been validly granted, the 10-day period should have been counted from February 3, 1969, the end of the original 30-day period; and (d) the appeal of the private respondent is pointless because it is liable in any event as the insurer of the principal defendants, whose appeal has already been dismissed.

We now rule on these contentions.

On the first issue, we hold that the respondent court correctly held that the judgment of the trial court had not yet become final and executory because the period for the filing of the record on appeal had been validly extended.

As we stressed in the early case of *Moya v. Barton*,^[3] "the trial court has the power and discretion to extend the period for filing the record on appeal in the interest of justice, if it appears that the appellant has no sufficient time to prepare and file it within the period limited by law, either because the remaining period is very short, or the record on appeal is voluminous, or because of some other justifiable reasons, provided the motion for extension is filed before the expiration of the period fixed by law." There is no dispute that the proviso was satisfied in the case at bar as the motion for extension was filed on February 3, 1969, the last day of the reglementary period.

The petitioner argues, however, that the filing of the said motion on that date did not suspend the running of the period as only a motion to set aside the judgment or a motion for new trial would have that effect under Rule 41, Section 3, of the Revised Rules of Court.^[4] Hence, when the trial judge granted the motion for extension the following day, February 4, 1969, his act was null and void because he had already lost jurisdiction over the case.

The applicable case, as pointed out by the respondent court, is *Buena v. Surtida*,^[5] where on a factual situation similar to the one before us, the Court said:

But the trial court disallowed the record on appeal, calming that when it granted on January 11 an extension of 15 days within which petitioner may file his appeal bond and record on appeal, it had no longer jurisdiction over the case due to the expiration of the 30-day period fixed by law for perfecting the appeal. The trial court, however, lost sight of the fact that there was a motion for extension of time for the filing of the appeal bond and record on appeal which was then unacted upon and over which the trial court had still jurisdiction to exercise its sound discretion. And when on that same date the trial court acted favorably on petitioner's motion for extension, it cannot be pretended that it has no longer jurisdiction to act thereon or, to be more exact, to use its discretion to grant or not to grant the motion for extension. And because the trial court had granted it, we hold that the petitioner has acquired the right to have his record on appeal and appeal bond approved by the trial court pursuant to our previous ruling in several cases to the effect that section 3, Rule 41, should be liberally construed in the light of the provisions of section 2, Rule 1 of the Rules of Court."

To the same effect was the ruling in *Singbengco v. Arellano*,^[6] thus:

It appears that petitioners received copy of the decision on the merits on October 24, 1952. On November 24, 1952, the last day of the period for the perfection of the appeal, they filed a motion for extension of time to file their record on appeal. This motion was granted on November 28, 1952. Two more motions for extension were filed, each on the last day of the extension period, and both motions are granted. And on the last day of the period allowed by the court, or on January 3, 1953, petitioners finally filed their record on appeal. These facts clearly indicate that, while the order of the court granting the last extension was not issued before the expiration of the period previously extended, the record on appeal was however filed within the additional period granted to petitioners by the trial court. In the circumstances, we hold that the record on appeal was filed on time and the Court of Appeals erred in considering the appeal to have lapsed and in dismissing the petition for mandamus on that ground. (Emphasis supplied.)

Our reason for this ruling is clear. While this Court has held that "The pendency of a motion for extension of time to perfect an appeal or to file a brief does not suspend the running of the period sought to be extended" (*Garcia v. Buenaventura*, 74 Phil. 611), however, it was also held "that when the order granting extension of time is issued and notice thereof served after the expiration of the period fixed by law, said extension of time must be counted from the date of notice of the order granting it is received" (*Alejandro v. Endencia*, 64 Phil. 321, 325), which implies that once a motion for extension is favorably acted upon, the appeal may still be perfected within the period so extended. And this is justified under the ruling long observed in this jurisdiction that motions of this kind are addressed to the sound discretion of the court and may be granted if there are justifiable reasons that warrant them (*Moya v. Barton*, 76 Phil. 831; *Reyes v. Court of Appeals*, 74 Phil. 235). Here there are good reason as pointed out by the trial court in its order of April 23, 1953.

Regarding the date when the 10-day extension should begin, it is true that as a rule the extension should be tacked to the original period and commence immediately after the expiration of such period. But that rule will not apply in the case at bar because the private respondent specifically moved that it be given "at least thirty days from receipt of the order" of the court allowing such extension.

The Order of the court simply read "Granting an extension only of ten (10) days," without more. As it merely reduced the period but made no modification of its date of effectivity, the extension should be counted from the date the order was received, viz., February 7, 1969. This would be conformable to the rule laid down in *Alejandro v. Endencia*, where we held:

That when the order granting extension of time is issued and notice thereof served after the expiration of the period fixed by law, said extension of time must be counted from the date notice of the order granting it is received. (Emphasis supplied.)

Finally, the petitioners argue that the appeal having been dismissed against the principal defendants, the judgment against them having become final and executory, it is useless for the private respondent to appeal because it is the insurer of the said defendants' liability to the petitioners. As such, it is bound to satisfy the judgment against the said defendants, whatever the outcome of its own appeal.

This contention is not quite correct. In *Tropical Homes, Inc. v. Fortun*,^[7] which we decided early this year, the Court stressed:

We have always recognized the general rule that in appellate proceedings, the reversal of the judgment on appeal is binding only on the parties in the appealed case and does not affect or inure to the benefit of those who did not join or were not made parties to the appeal. An exception to the rule exists, however, where a judgment cannot be reversed as to the party appealing without affecting the rights of his co-debtor, or where the rights and liabilities of the parties who did not join in the appeal and those of the parties appealing are so interwoven and dependent on each other as to be inseparable, in which case a reversal as to one operates as a reversal as to all. This exception which is based on the communality of interest of said parties, is recognized in this jurisdiction.

The appeal of the private respondent may yet establish that the case at bar comes under the exception. While the judgment against the principal defendants may also be held to be binding on the private respondent, it is also possible that its appeal will absolve it of responsibility as an insurer or even exonerate the principal defendants themselves. These are matters that, precisely, have yet to be determined in the appeal under consideration, which is why it should not be peremptorily dismissed. Significantly, the principal defendants' own appeal was dismissed only for tardiness and not on the merits, which may still be examined in the private respondent's appeal.

It is worth stressing that while appeal is not a natural or inherent right, nor is it deemed embraced in the right to be heard, it becomes demandable when the right is granted by the Constitution or by statute and so comes under the protection of the due process clause. This principle, and the admonition that procedural rules should be liberally construed, are additional reasons why the appeal in question should be allowed.

WHEREFORE, the petition is DISMISSED. The record on appeal being no longer necessary at this time, the private respondent's appeal is hereby declared perfected and shall proceed in accordance with the procedure prescribed by the Interim Rules. It is so ordered.

Narvasa, (Chairman), Gancayco, Griño-Aquino, and Medialdea, JJ., concur.

[1] Perez, J., ponente, with Lucero and Mendoza, JJ., concurring.

[2] Decision, p. 5, rollo, p. 24.

[3] 76 Phil. 831.

[4] Petitioners' Brief Memorandum in Lieu of Oral Argument, pp. 2-4, rollo pp. 56-58. (The said section has been modified by the Interim Rules under which an appeal is perfected generally by the filing only of a notice of appeal with the Court that rendered the judgment or order appealed from. Appeal bonds have been eliminated while records on appeal are required only in appeals in special proceedings or in cases wherein multiple appeals are allowed [Secs. 18 & 19(b)]. Under the same Rules, the period for appeal has been reduced to fifteen (15) days except in habeas corpus, and in special proceedings and other cases wherein multiple appeals are allowed. In these cases, the period of appeal shall be thirty (30) days, a record on appeal being required.)

[5] 101 Phil. 455.

[6] 99 Phil. 952.

[7] G.R. No. 51554, January 13, 1989.

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.