

JEREMIAS MONTEJO, PETITIONER VS. HON. DOMINGO CABANGON, IN HIS CAPACITY AS JUDGE, CAR AND SOLEDAD NERONA, RESPONDENTS.

G. R. No. L-17977. May 30, 1962

Ponente: BARRERA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/abd55b9c3784/>

BARRERA, J.:

This is a petition for review on certiorari of the decision of the Court of Agrarian Relations (in CAR Case No. 47-Z-60) dated November 29, 1960, which, in part, reads:

"The petitioner Jeremias Montejo filed a case praying that the respondents be directed to retain him as their tenant on the land-holding in question described in the petition. He further seeks that a judgment be rendered fixing the legal amount of rental for the use and occupation of the landholding to six (6) cavans of palay per annum, and that because he has paid an excess rental, he desires that he be reimbursed 27 cavans which constituted the excess of the amount of rental provided for by law. He alleges in his petition that the contract of tenancy is one of leasehold system which has started six (6) agricultural years ago, beginning with crop year 1954-1955 paying as rental the amount of 15 cavans, which he yearly delivered to the respondents. Some time on April 2, 1960, after the petitioner has delivered the rental for the recent agricultural crop, the respondents served verbal notice to him that he surrender the landholding to the former. He is capable of tilling the landholding in question, which is second class riceland producing 25 cavans of palay for three consecutive agricultural years preceding 1957-1958; 30 cavans for agricultural year 1957-1958; 28 cavans for crop year 1958-1959 and 26 cavans for 1959-1960. He alleges that six (6) cavans of palay will be enough as rental consideration annually, instead of fifteen (15) cavans. On the other hand, the respondents in their answer alleged that the petitioner is not tenant at all of theirs, nor on the landholding. They alleged that the petitioner never delivered to them any rental consideration for the use of the landholding in question, for he is not their tenant, but one Dionisio Merced, by name, who succeeded their former tenant Amado Malay, beginning the crop year 1956-1957. The rental consideration for the use of the land which Dionisio Merced agreed to pay them with, was 15 cavans of palay every agricultural year. Their contract of leasehold tenancy with Dionisio Merced was to terminate after the agricultural year 1959-1960, for they wanted to till and cultivate the land by themselves.

"The issue in the instant case narrows down to one proposition, and that is, whether the petitioner is the tenant of the respondents on the parcel of land in question; if in the affirmative, then the second issue will be the reduction of the rental consideration.* * *

Then the trial court proceeded to analyze the evidence presented by both of the parties and, after evaluating the same, it observed that "the testimony of Jeremias Montejo is unnatural" and that his other testimony that "he consistently delivered annually to Soledad Norona the rental consideration when as a matter of truth this Soledad resided in Manila" ..."influences the Court to decline to believe him (Montejo)". As a result, the trial court ruled:

"WHEREFORE, decision is hereby rendered dismissing the petition in the instant cases thus, finding that the petitioner (Montejo) is no tenant of the respondents, nor on the landholding, but Dionisio or Patricio Merced

who may, if he so desires, remain as tenant in the same landholding."

Notified of this decision, petitioner, without taking any further steps in the trial court, directly filed the present petition for review on certiorari in this Court. The herein respondents, in their answer, now urge the dismissal of the appeal, on the ground that the same has not been perfected as required by law and the applicable rules.

The case has been submitted for decision on the petition and the answer filed, the parties having filed no brief nor memorandum in lieu of oral argument.

The petition should be dismissed. Section 13 of Republic Act No. 1267, as amended by Republic Act No. 1409 (Sec. 8),[1] and Section 1, Rule 44, of the Rules of Court, respectively, provide:

"SEC. 13. Review by the Supreme Court.—Appeal may be taken from an order or decision of the Court of Agrarian Relations promulgated under the provisions of this Act and review of such order or decision may be obtained in the Supreme Court by filing in such court within fifteen days from receipt of notice of such order or decision a written petition- praying that it be modified or set aside in whole or in part. The review by the court shall be limited to questions of law, and findings of fact when the decision is not supported by substantial evidence."

"SECTION 1. How to perfect an appeal.—An appeal by certiorari from an award, order or decision of the Court of Industrial Relations, shall be perfected by filing with said court a notice of appeal and with the Supreme Court a petition, for certiorari against the adverse party within fifteen (15) days from notice of the award, order or decision appealed from." (This rule applies to appeals from the Court of Agrarian Relations, per Resolution dated January 5, 1966, Supreme Court.)"

It appears on record that the decision in question was rendered on November 29, 1960, of which petitioner was notified on December 15, 1960. From said decision, petitioner filed no notice of appeal in the court below, as required under the above-quoted provision of the Rules of Court, in order to perfect an appeal, but immediately and directly presented his petition for review in this Court. As a consequence, no appeal from said decision has been perfected. His failure to do so, rendered said decision final and executory, and deprived this Court of jurisdiction to entertain the present petition for review. As we had occasion to say in a previous similar case[2]

"From the above facts, it is quite evident that, as pointed out by respondent Pineda, petitioners had failed to perfect their appeal in accordance with law, first, by not filing the necessary notice of appeal with the Agrarian Court, and second, by filing this petition for certiorari beyond fifteen days from their receipt of copy of the Court's decision. * * * Needless to say, perfection of an appeal in the manner and within the period laid down by law is not only mandatory but jurisdictional, and failure to perfect an appeal as legally required has the effect of rendering final and executory the judgment of the court below and deprives the appellate court of jurisdiction to entertain the appeal (Miranda vs. Guanzon, et al., 92 Phil., 163 48 Off. Gaz. No. 10, 4359; Garganta, et al., vs. C. A. 105 Phil., 412)."

Additionally, it may be stated that petitioner's failure to file with the court below a motion for reconsideration of its decision in question, precluded him from questioning before us the findings of respondent Judge. (See Tabiolo, 2 Caisip, et al. vs. Judge Cabangon, et al., 109 Phil. 150. et al. vs. Marquez, G. R. JJOi L-7035, prom. March 25, 1955.)[3]

Even if we wish to consider the present petition as a special civil action for certiorari, still it will be of no avail, as it fails to satisfy the requirements of Section 1, Rule 67, of the Rules of Court. No question of jurisdiction nor grave abuse of discretion is raised in the present petition, but merely, an alleged "gross error in holding that it is not petitioner but Dionisio Merced who is tenant of the landholding in question; that this finding is not substantially supported by the evidence adduced in the case." (See paragraph 6 of the petition) And, certiorari will

not lie where appeal is an adequate remedy, even if the period for appeal has already elapsed (*Yucuanseh Drug Co. vs. Yu Siu tek*, 101 Phil., 409).

Wherefore, the petition is hereby dismissed, for lack of jurisdiction of this Court to entertain the same. Petitioner being a pauper, no cost will be taxed. So ordered.

Padilla, Bautista Angelo, Concepcion, Reyes, J. B. L., Paredes, Dizon, and Regala, JJ., concur.

[1] Effective September 9, 1955.

[2] *Caisip, et al. vs. Judge Cabangon, et al.*, 109 Phil. 150.

[3] See also *Nicolas et al. vs. Castillo, et al.*, 97 Phil., 336, citing: *Herrera vs. Barretto*, 25 Phil. 245; *Uy Chu vs. Imperial*, 44 Phil., 27, and other cases.

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.