

SALUSTIANO MANALO, PETITIONER, VS. THE COURT OF APPEALS AND TEMISTOCLES MACAPANPAN, RESPONDENTS.

G.R. No. L-27492. July 31, 1967

Ponente: REYES, J.B.L., Actg. C.J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/b785b2d2e2e4/>

REYES, J.B.L., Actg. C.J.:

Petition for certiorari to set aside the orders of the respondent Court of Appeals, in its case CA-G. R. No. 38300-R, dismissing the petitioner's appeal and denying the reinstatement of his appeal, from the decision of the Court of First Instance of Laguna in an election contest.

The petitioner Salustiano Manalo was proclaimed by the board of canvassers the elected mayor of Pakil, Laguna in the elections on 12 November 1963. His rival for the position, respondent Temis-tocles Macapanpan, not satisfied with the result of the canvass, filed an election protest in the said Court of First Instance. After trial, the court rendered Judgment on 5 September 1966 declaring the protestant, herein respondent Macapanpan, the duly elected mayor, with a plurality of nineteen (19) votes over the protestee.

Protestee Manalo appealed to the Court of Appeals, perfecting his appeal on 19 September 1966. On 1 March 1967, the appellate court issued the following resolution:

"It appearing that counsel for the protestee-appellant failed to file printed brief within the reglementary period therefor nor to file a motion for extension within which to submit the same, the Court RESOLVED to DISMISS the appeal of the protestee-appellant."

and, acting on appellant's motion to reconsider, the same Court, on 7 April 1967, issued the following resolution:

"Upon consideration of the motion to reinstate the dismissed appeal as well as the opposition there-to, the court RESOLVED to DENY the motion."

The petitioner challenges the foregoing resolutions as illegal, unfair and issued without due process of law on the ground that none of his three (3) attorneys of record ever received a notice from the clerk of the appellate court "that all evidence oral and documentary is already attached to the record", as provided for in Section 3, Rule 124 of the Rules of Court, from which time of receipt is counted the period for him to file his brief; that his brief was already almost completed but had been waiting for the said notice; that petitioner received on 10 March 1967 the dismissal order of 1 March 1967; that notwithstanding that, on the same day, 10 March 1967, he moved for reconsideration, attaching thereto his almost completed typewritten brief to show good faith, and asking a period of three (3) weeks from that day within which to file his brief, the Court of Appeals denied the reinstatement of his appeal.

On the other hand, respondent Macapanpan avers that on 11 January 1967 the respondent court issued the notice that "all evidence oral and documentary is already attached to the record", giving the appellant a 15-day period to file his brief; that said notice was sent by registered mail on 17 January 1967, was received by the post office at Sta. Cruz, Laguna on 18 January 1967 and was delivered on 30 January 1967 to Atty. Magdaleno Palacol through

his agent Macario Magcalas, although it was the wife of Magcalas who signed the registry return card and the registry book; that the registry no-tice was previously offered for delivery to Atty. Enrique Villanueva and to Atty. Rustico de los Reyes , Jr., also counsel of record of the appellant, but these lawyers refused to accept the notice; that although petitioner had asked for a 3-week period or until 31 March 1967 within which to file his brief, he has not filed any brief at all.

The three lawyers of the petitioner deny having authorized Mr. or Mrs. Magcalas to receive their mail for them; but Attys. Villa-nueva and De los Reyes have not disputed, in this Court, that they were previously offered delivery of the registry notices, but they refused to accept it.

In denying reconsideration of its order of dismissal of the pe-titioner s appeal, the Court of Appeals evidently was not satisfied with the proofs submitted by said party. Its action in this regard is not subject to review, for we cannot interfere with its discre-tion, nor do we find adequate basis for a ruling that it was bound to believe any particular evidence.

Further, this Court must look with disfavor upon appellants in election cases who are the protestees, or the ones proclaimed or seated to contested offices, and who fail to exercise due vigil-ance in the prosecution of their appeals. As respondent Macapan-pan pointed out, if the herein petitioner was serious in his appeal and was not merely trying to delay the final outcome of the case, why did he not file his printed brief on or before 25 March 1967, when he already knew on 10 March 1967 about the notice for him to file brief in 15 days? Or why had he not filed his brief on or before 31 March 1967, within the period he asked in his motion for recon-sideration?

Petitioner offered no answers to these questions. Having given none, the issuance of the questioned order of dismissal and of the denial of the reinstatement of his appeal was not whimsical or arbitrary; therefore, not an abuse of discretion (*Liwanag vs. Castillo*, G. R. No. L-13517, 20 Oct. 1959). The orders com-plained of were grounded not so much on the misdelivery of the notice, but more upon petitioner's inaction or indifference to the prosecution of his appeal. His failure to file appellant's brief was a good ground for the dismissal of his appeal for, as stated in *Felisilda vs. Achacoso*, G. R. No. L-21228, 22 November 1963, "par-ties cannot expect the appellate court motu proprio to search from the records grounds to support their respective theories x x x."

Nor may this Court pass upon the petitioner's assignment of errors allegedly committed by the Court of First Instance, because this is not a petition for certiorari against the trial court; neither is it an appeal by certiorari from a decision of the Court of Appeals.

For the foregoing reasons, the questioned orders of 1 March 1967 and 7 April 1967 of the Court of Appeals are hereby affirmed, with costs against the petitioner Salustiano Manalo.

SO ORDERED.

Makalintal, Bengzon, JP, Zaldivar, Sanchez, Ruiz Castro, Angeles and Fernando, JJ., concur.
Concepcion, C.J., and Dizon, J., on leave, did not take part.

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.