

MATIAS GAMBOL AND MARIA BUROG, PETITIONERS, VS. HON. MANUEL P. BARCELONA, JUDGE OF THE COURT OF FIRST INSTANCE OF BATANGAS, MIGUEL MENDOZA AND FELICIANA DAVALOS, RESPONDENTS.

G. R. No. L-14339. September 30, 1959

Ponente: GUTIERREZ DAVID, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/b98d0fabea2f/>

GUTIERREZ DAVID, J.:

Petitioners were plaintiffs in a civil case filed in the Justice of the Peace Court of Batangas, Batangas, for the recovery of the sum of P650.00 allegedly owed to them by the defendant spouses Miguel Mendoza and Feliciana Davalos, plus the sum of P200.00 as attorney's fee and P100.00 as expenses of litigation. The trial of the case was set for June 17, 1958. On that same day, the inferior court after hearing plaintiff's evidence, both oral and documentary, over the objection of the defendants and in the absence of the latter's counsel—who had previously sent a telegraphic request for postponement—sentenced the defendant spouses to pay plaintiffs the amounts claimed in the complaint. Also on that same day, defendants moved for the reconsideration of the judgment. Their motion having been denied, defendants, on July 9, 1958—the very same day they received notice of the denial—took steps to perfect an appeal to the Court of First Instance of the province by filing with the justice of the peace court their notice of appeal, an appeal bond and an official receipt issued by the municipal treasurer evidencing the deposit of the appellate court docket fee in the sum of P12.00. Giving course to the appeal, the justice of the peace transmitted the record of the case to the Court of First Instance where it was docketed as Civil Case No. 643.

On July 25, 1958, plaintiffs filed in the Court of First Instance a motion to dismiss the appeal on the ground that it had not been perfected within the prescribed reglementary period owing to the failure of the defendants to pay within the 15-day period fixed by the Rules the full amount of the docketing fee which, in accordance with Rule 130, section 5, should be P16.00 instead of P12.00. No objection to the motion having been filed, the court below on August 12 of that year ordered the dismissal of the appeal. But the following day, counsel for defendants—while appearing before the lower court in connection with another case—learned of the shortage in the docketing fee and immediately deposited the balance with the municipal treasurer. Subsequently, he filed a motion for the reconsideration of the order dismissing defendants' appeal.

Plaintiffs objected to the motion for reconsideration but the court below, considering" that the additional amount of P4.00 was deposited upon defendants' counsel learning that the appellate court docket fee was short by that amount and following the rule that technicality should be given scant consideration when substantial rights are not prejudiced, set aside the order of dismissal and ordered the reinstatement of the appeal.

Alleging that the lower court acted without jurisdiction in reinstating the defendants' appeal, plaintiffs elevated the case to this Court through an original petition. The prayer calls in effect for the issuance of a writ of mandamus, but the facts stated in the petition indicate that the appropriate remedy, assuming the action to be well founded, is

the writ of certiorari. The instant petition will, therefore, be considered as an application for the latter remedy. The rule is settled that, in case of appeals from inferior courts to the Courts of First Instance, the amount of the appellate court's docket fee should be deposited in full within the period of fifteen days. If half only of the amount is deposited and the other half is tendered after the expiration of such period, no appeal is deemed perfected. (*Lazaro vs. Endencia et al.*, 57 Phil. 562.) However, where appellant in good faith deposited less than the correct amount for the docket fee because that was the amount he was required to pay by the clerk of the justice of the peace court, and he was willing to pay what was lacking, his appeal must not be dismissed, and he must be allowed to complete the amount by him deposited. (*Marasigan vs. Palacio, et al.*, 87 Phil.; 839; *Segovia vs. Barrios, et al.*, 75 Phil. 764.)

In the present case, it would appear that defendants, upon advice by the justice of the peace, deposited the appellate court's docket fee of P12.00 with the municipal treasurer. The official accepted the amount without objection. The justice of the peace—during the perfection of the appeal by the filing of the notice of appeal, appeal bond and the official receipt evidencing the deposit of the docketing fee—did not require defendants to pay an additional amount of P4.00 to complete the docketing fee, but transmitted the Record of the case to the Court of First Instance. And the clerk of that appellate court, in entering the appeal upon the docket of his office, likewise, did not require defendants to pay an additional amount to cover the shortage in the docketing fee already deposited. It can fairly be assumed that the omission by these public officers led defendants to believe that they had paid the correct fee. It is significant to note that the shortage, upon discovery, was immediately paid. Obviously, defendants were from the beginning ready and willing to pay the correct amount of the docketing fee and if they paid the sum of P12.00 they did so in good faith and apparently because the justice of the peace advised, and the municipal treasurer required, them to pay that amount only. Under the circumstances, it would be unjust to dismiss their appeal. As was said in the case of *Marasigan vs. Palacio et al.*, *supra*, citing the case of *Segovia vs. Barrios et al.*, *supra*, "Every citizen has the right to assume and trust that the public officer charged by law with certain duties knows his duties and performs them in accordance with law. To penalize such citizen for relying upon said officer in all good faith is repugnant to justice."

It is argued, however, that defendants' counsel received on July 30, 1958 a copy of plaintiffs' motion to dismiss the appeal which explained that the docketing fee should be P16.00 and not P12.00 but that notwithstanding, he filed no opposition to the motion nor offered to pay the balance, and relied instead upon "the respondent judge's leniency on such matters as personally experienced previously" by him in another case. These facts, according to plaintiffs, show defendants' bad faith and "malicious intention to delay the case." Counsel for defendants, however, has, in the answer filed to the petition, explained that he was not aware that a motion to dismiss the appeal had been filed by plaintiffs, because his employee, who received the copy of the motion, inadvertently misplaced it in the filing cabinet and neglected to inform him about it. In support of the explanation is a sworn statement executed by said employee and attached as an annex to the answer. Taking into account all the circumstances of the case we are not persuaded to say that there has been sufficient showing of intent, on the part of defendants, to unduly delay the case.

We note further that the alleged error or irregularity committed by the lower court in issuing the order complained of has not been brought to its attention through a motion for reconsideration, a requisite which is necessary in petitions for certiorari. And considering, moreover, that defendants during the hearing of the case before the justice of the peace court were not assisted by their counsel, and that the reinstatement of their appeal did not deprive plaintiffs of any substantial right, we think that the interest of justice would be better served if defendants were given an opportunity to be heard and allowed to prove their defense.

In view of the foregoing, the petition is denied, with costs against the petitioners.

Paras, C. J., Bengzon, Padilla, Montemayor, Bautista Angelo, Labrador, Concepcion, Endencia and Barrera, JJ., concur.

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.