

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.  
TOMAS LACANDAZO, ET AL., ACCUSED, FELIZARDA SANDOVAL,  
MOTHER OF THE OFFENDED PARTY AND APPELLANT.**

*G.R. No. L-29058. February 28, 1969*

Ponente: DIZON, J.

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**DIZON, J.:**

In Criminal Case No. 3115 of the Court of First Instance of Palawan, Tomas Lacandazo was found guilty of homicide through simple negligence and sentenced accordingly "to an imprisonment of six (6) months of arresto mayor, to indemnify the heirs of the deceased (Matilde Sandoval) in the amount of P6,000, with subsidiary imprisonment in case of insolvency, and to pay the costs". After the promulgation of the sentence the record of the case was elevated to us because of an appeal "made x x x by the mother of the offended party and approved by the court" (Record, p. 1).

On September 10, 1968, a notice to file brief and to submit proof of service thereof on the adverse party was sent by us to Mrs. Felizarda Sandoval, mother of the deceased Matilde Sandoval, which, according to the record, was received by her on the 20th of the same month and year. In answer thereto, on November 8, 1968, the Clerk of this Court received from Mrs. Sandoval a letter of the following tenor:

"I have the honor to inform your High Office that have already received your kind letter dated September, 1968, in connection with my APPEAL to that Honorable Court.

"With respect to your request to furnish you all pertinent papers regarding this Case, same have already been forwarded to the Solicitor General by the Clerk of Court of the Court of First Instance, Branch I, Province of Palawan, Philippines.

"Thanking you in advance for the kind and prompt attention being extended to my humble-self in the premises."

On November 19, 1968 Tomas Lacandazo filed a motion to dismiss the appeal upon the ground that appellant has no personality to prosecute the same; that the appeal was taken contrary to the provisions of Sections 2 and 3, Rule 122 of the Revised Rules of Court; that at the time of the filing of the notice of appeal Lacandazo had long been serving sentence and that, having already served the penalty imposed upon him, he has been actually released from custody.

Criminal Case No. 3115 mentioned above involved also the civil action for indemnity. As the decision rendered against Lacandazo finding him guilty of homicide through simple negligence can not be the subject of appeal because he would thereby be placed in jeopardy, Mrs. Sandoval's appeal could be only from that portion of said decision sentencing Lacandazo to pay civil indemnity in the amount of P6,000. It appears in this connection that while the decision aforesaid was dated February 10, 1967, Mrs. Sandoval received notice thereof only on March 9 of the same year and she filed the required notice of appeal on March 17, well within the period of appeal. To this

must be added the circumstance that in his order of April 19, 1967, His Honor, the judge of the lower court, gave due course to Mrs. Sandoval's appeal. It is reasonable to presume, therefore, that appellant had complied with all the legal requirements in connection therewith. Consequently, her appeal can not be dismissed upon any of the grounds relied upon in the motion under consideration.

On the other hand, the record shows that appellant Felizarda Sandoval has not filed any brief up to this time, probably relying upon the Solicitor General to do it for her. In the interest of justice it is resolved to require her to file her brief as appellant, as far as the civil aspect of the case is concerned, within thirty (30) days from notice.

Concepcion, C.J., Reyes, J.B.L., Makalintal, Zaldivar, Castro, Fernando, Capistrano, Teehankee, and Barredo, JJ., concur.

Sanchez, J., did not take part.

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