

**REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. THE HON.
AMADOR E. GOMEZ, JUDGE OF COURT OF FIRST INSTANCE OF CEBU
AND BABY GO, REPRESENTED BY HIS NATURAL GUARDIAN AND
FATHER GREGO...**

G. R. No. L-17852. May 31, 1962

Ponente: PAREDES, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/ce223086ec4c/>

PAREDES, J.:

On March 4, 1960, Gregorio Go, father and natural guardian of Baby Go, a minor of 9 years, filed a verified petition in behalf of said Baby Go, for the latter's change of name of Alberto Go. The petition was accomplished in due form, hearing was held, after which the Court on October 8, 1960 rendered judgment, the dispositive portion of which reads—

"The Courts finds the petition to be well-founded and therefore grants the same; and pursuant thereto hereby authorizes the name of Baby Go, registered in the local Civil Registrar of Cebu City, to be changed to ALBERT GO and that henceforward this child shall bear the name Alberto Go".

On November 8, 1960, the Solicitor General, in representation of the Government, filed a Notice of Appeal from the above decision and on November 9, 1960, the requisite Record on Appeal. On November 12, 1960, Judge Amador E. Gomez promulgated an Order, denying the appeal interposed on the ground that the same is frivolous. Alleging that the respondent Judge, in denying the appeal and not giving due course thereto, and in refusing to approve the Record on Appeal, acted in grave abuse of discretion and unlawfully neglected the performance of an act specially enjoined upon him as a duty, where there is no other plain, speedy and adequate remedy in the ordinary course of law, the Government presented the petition at bar. Answering, respondents justified their actuations by citing the order denying the appeal, wherein it was stated that the Court saw no valid reason for the appeal; all requirements had been complied with; at the hearing, the City Fiscal appeared in behalf of the Solicitor General, who crossed-examined the lone witness for the petitioner, and scrutinized both testimonial and documentary evidence offered; the Fiscal submitted the case without argument; that during the hearing on the Record on Appeal, the City Fiscal could not point out wherein lies the error or mistake' alleged to have been committed by the trial court, and upon which the appeal could be based, except to say that the City Fiscal's office received instructions from the Solicitor General to interpose an appeal.

There is no dispute regarding the fact that the appeal was filed within the reglementary period. We believe that it is not within the province of the lower court to declare, at that stage of the proceedings, whether an appeal is frivolous or not. Such duty devolves upon the appellate Courts. Where an appeal is presented on time, attended by the requirements of law, the same should be given due course (Sec. 3, Rule 41). An appeal, being an essential part of our judicial system and, in this case, proper, courts are enjoined to facilitate its taking due course. It is true that the City Fiscal could not point wherein lies the error in the order granting the petition for change of name. We think, however, that it was sufficient for the City Fiscal to inform the Court that he was instructed by the Solicitor

General to interpose an appeal, indicating that, as to him, the decision was against the law and the evidence. It can not be said that the Solicitor General just wanted to interpose an appeal by mere caprice. It would be for the benefit of all concerned that the appeal of the State be given due course.

Wherefore, the writ is granted; the order of November 12, 1960, reversed, and another entered, ordering the respondent Judge to give due course to the appeal interposed by the Government. No costs.

Padilla, Bautista Angelo, Concepcion, Reyes, J. B. L., Barrera, Dizon and Regala, 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.