

ROGELIO S. SOLOMON, PETITIONER, VS. CELESTINO S. SOLOMON, RESPONDENT.

Ponente: ELBINIAS, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/ce3daef218e0/>

ELBINIAS, J.:

To be addressed is the Petition for Review[1] (“Petition” for brevity) filed by petitioner Rogelio S. Solomon (“petitioner” for brevity) under Rule 43 of the Rules of Court.

However, the Petition[2] is dismissible for failure of the petitioner to observe the doctrine of exhaustion of administrative remedies, as was declared by the Supreme Court in *Leonardo A. Paat, etc., et. al. vs. Court of Appeals, et. al.*, G.R. No. 111107, January 10, 1997, to wit:

“This Court in a long line of cases has consistently held that before a party is allowed to seek the intervention of the court, it is a pre-condition that he should have availed of all the means of administrative processes afforded him. Hence, if a remedy within the administrative machinery can still be resorted to by giving the administrative officer concerned every opportunity to decide on a matter that comes within his jurisdiction then such remedy should be exhausted first before court's judicial power can be sought, The premature invocation of court's intervention is fatal to one's cause of action. Accordingly, absent any finding of waiver or estoppel the case is susceptible of dismissal for lack of cause of action.” (Emphasis supplied)

Here, petitioner questioned the Provincial Adjudicator's Decision[3] in DARAB CASE No. R-03-02-4390'08 for “Restoration of Possession / Cultivation, with Status Quo Order & Damages” filed by respondent Celestino S. Solomon (“respondent” for brevity) against petitioner. The dispositive portion of the Provincial Adjudicator's Decision[4] read as follows:

“WHEREFORE, premises considered, judgment is hereby rendered:

1. DECLARING complainant Celestino S. Solomon to be entitled to cultivate the subject landholdings;
2. ORDERING the herein respondent and other siblings to respect the complainant's cultivation of the landholdings in question and/or for the respondent to desist harassing the complainant in his continued cultivation of the subject landholdings;
3. ORDERING the complainant to compensate/reimburse the other heirs, herein respondent and other siblings of their respective legal interest in the land as co-owners thereof, subject to the payment of whatever outstanding obligation of the deceased farmer-beneficiary, if any.

The other claims and counterclaims of the parties are hereby DISMISSED for lack of merit.

SO ORDERED.”[5]

Considering that the Provincial Adjudicator's assailed Decision[6] was a final resolution on the merits, then petitioner's remedy from such Decision[7] was to file an appeal to the Department of Agrarian Reform Adjudication Board (“DARAB” for brevity). An appeal to the DARAB being petitioner's proper remedy is as

provided for under Section 1, Rule XIV of the 2003 DARAB Rules of Procedure, to wit:

“SECTION 1. Appeal to the Board. — An appeal may be taken to the Board from a resolution, decision or final order of the Adjudicator that completely disposes of the case by either or both of the parties within a period of fifteen (15) days from receipt of the resolution/decision/final order appealed from or of the denial of the movant's motion for reconsideration in accordance with Section 12, Rule IX xxx” (Emphasis supplied)

Thus, petitioner's failure to exhaust an available administrative remedy results to a premature invocation of the court's intervention and renders the Petition[8] at bench dismissible. That this is the consequence is in accordance with the following pronouncement of the Supreme Court in *Rosita A. Montanez vs. Provincial Agrarian Reform Adjudicator (PARAD)*, etc., *The Landbank of the Philippines, Mauro T. Alfonso, et. al.*, G.R. No. 183142, September 17, 2009:

“It is settled that the premature invocation of the court's intervention is fatal to one's cause of action. If a remedy within the administrative machinery can still be resorted to by giving the administrative officer every opportunity to decide on a matter that comes within his jurisdiction, then such remedy must first be exhausted before the courts power of judicial review can be sought. The party with an administrative remedy must not only initiate the prescribed administrative procedure to obtain relief but also pursue it to its appropriate conclusion before seeking judicial intervention in order to give the administrative agency an opportunity to decide the matter itself correctly and prevent unnecessary and premature resort to the court.

Corollary to the exhaustion rule is the doctrine of primary jurisdiction, a basic postulate which precludes courts from resolving a controversy over which jurisdiction has initially been lodged with an administrative body of special competence.” (Emphasis supplied)

Besides, even if a Petition for Review under Rule 43 of the Rules of Court could be considered as the proper remedy to assail the Provincial Adjudicator's Decision[9], the Petition[10] at bench is nonetheless dismissible, because material portions of the record and other supporting documents pertinent to the Petition[11] were not attached. These were: respondent's “Reply”, petitioner's “Rejoinder”, respondent's “Sur-Reply”, and respondent's “Position Paper”.

Considering that these documents were referred to in the Petition[12] at bench and in the assailed Decision[13], the failure to attach them is in contravention of Section 6(c) of Rule 43 of the Rules, and which failure warrants the dismissal of the Petition[14] under Section 7 of Rule 43, to wit:

“Section 6. Contents of the petition. — The petition for review shall xxx (c) be accompanied by a clearly legible duplicate original or a certified true copy of the award, judgment, final order or resolution appealed from, together with certified true copies of such material portions of the record referred to therein and other supporting papers; xxx

Section 7. Effect of failure to comply with requirements. — The failure of the petitioner to comply with any of the foregoing requirements regarding the payment of the docket and other lawful fees, the deposit for costs, proof of service of the petition, and the contents of and the documents which should accompany the petition shall be sufficient ground for the dismissal thereof.” (Emphasis supplied)

That the failure of a party, such as petitioner, to comply with the procedural requirements of filing a Petition for Review under Rule 43 of the Rules of Court renders his Petition dismissible, is in accordance with the following pronouncement of the Supreme Court in *Marison C. Basuel v. Fact-Finding and Intelligence Bureau (FFIB)* represented by Director, *Agapito B. Rosales*, G.R. No. 143664, June 30, 2006:

“At the outset, it must be emphasized that the right to appeal is neither a natural right nor a part of due process. It is merely a statutory privilege and may be exercised only in the manner and in accordance with the

provisions of law. Thus, one who seeks to avail of the right to appeal must comply with the requirements of the Rules. Failure to do so often leads to the loss of the right to appeal.

The requirements of the rules on appeal cannot be considered as merely harmless and trivial technicalities that can be discarded at whim. To be sure, the Court will not countenance deviations from the rules. In these times when court dockets are clogged with numerous litigations, parties have to abide by these rules with greater fidelity in order to facilitate the orderly and expeditious disposition of cases.

xxx [I]n Section 6, Rule 43 of the Rules of Court. The consequence of this failure is outlined under Sections 7 and 8 of Rule 43, to wit:

SEC. 7. Effect of failure to comply with requirements. – The failure of the petitioner to comply with any of the foregoing requirements regarding the payment of the docket and other lawful fees, the deposit for costs, proof of service of the petition, and the contents of and the documents which should accompany the petition shall be sufficient ground for the dismissal thereof.

xxx

xxx Save for the most persuasive of reasons, strict compliance with the rules is enjoined to facilitate the orderly administration of justice. xxx In addition, to grant petitioner's request would be to fault the CA for acting in faithful compliance with the rules of procedure which that court has been mandated to observe. Viewed in this light, it cannot be said that the CA committed an error in denying the petition for being procedurally defective." (Emphasis supplied)

The right to appeal by Petition for Review under Rule 43 of the Rules of Court "is not a matter of right but a mere statutory privilege [and] [t]he party who seeks to exercise the right to appeal must comply with the requirements of the rules"[15].

IN VIEW OF ALL THESE, the Petition is DISMISSED.

SO ORDERED.

Dicdican (Chairman) and Paredes, JJ., concur.

[1] Rollo, pp. 8-17.

[2] Rollo, pp. 8-17.

[3] Rollo, pp. 21-26.

[4] Rollo, pp. 21-26.

[5] Rollo, p. 25.

[6] Rollo, pp. 21-26.

[7] Rollo, pp. 21-26.

[8] Rollo, pp. 8-17.

[9] Rollo, pp. 21-26.

[10] Rollo, pp. 8-17.

[11] Rollo, pp. 8-17.

[12] Rollo, pp. 8-17.

[13] Rollo, pp. 21-26.

[14] Rollo, pp. 8-17.

[15] BPI Family Savings Bank, Inc., PETITIONER, vs. Pryce Gases, Inc., International Finance Corporation, et al, G.R. No. 188365, June 29, 2011

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.