

AURIA LIMPOT, PETITIONER, VS. COURT OF APPEALS, PROV. SHERIFF, SOUTHERN LEYTE, CONCHITA TAN DE LIM, MARCELINA LIM GO, RUDELIA LIM GO, DULCITA LIM HORTIGUELA, AND EDITO LIM, RESP...

G.R. No. L-44642. February 20, 1989

Ponente: CRUZ, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/d4924b7b0abc/>

CRUZ, J.:

Rules of procedure are intended to ensure the orderly administration of justice and the protection of substantive rights in judicial and extrajudicial proceedings. It is a mistake to suppose that substantive law and adjective law are contradictory to each other or, as has often been suggested, that enforcement of procedural rules should never be permitted if it will result in prejudice to the substantive rights of the litigants. This is not exactly true; the concept is much misunderstood. As a matter of fact, the policy of the courts is to give effect to both kinds of law, as complementing each other, in the just and speedy resolution of the dispute between the parties. Observance of both substantive and adjective rights is equally guaranteed by due process whatever the source of such rights, be it the Constitution itself or only a statute or a rule of court.

In the case at bar, petitioner claims that she has been deprived of her day in court because of a strict adherence to procedural rules and as a consequence prevented from defending her substantive rights. She asks that the decision of the Court of Appeals [1] sustaining the trial court be reversed and that the case be remanded to the court a quo for a thorough examination of the issues in contention between her and the plaintiffs, the private respondents herein.

Briefly stated, the facts involved in this petition are as follows:

On October 3, 1967, the private respondents filed a complaint for quieting of title and recovery of possession against the petitioner in the Court of First Instance of Southern Leyte.[2] After the plaintiffs had rested and following the presentation of one witness for the defendant, Atty. Braulio G. Alfaro, the petitioner's counsel, sent on August 12, 1972 a telegraphic motion for the postponement of the hearing set for August 22, 1972, alleging physical indisposition because of injuries sustained by him due to a fall from a bus.[3] The petitioner was informed of the motion, also by telegram, and asked to notify the adverse parties.[4] On the day of the scheduled hearing, the motion was opposed by the private respondents for lack of notice and failure to indicate the date of the resetting.[5] Judge Gibson Araula denied the motion and said he would continue with the hearing scheduled the following day. However, instead of proceeding with the trial on that date, he required the petitioner, who was present without counsel, to submit proof within five days that the plaintiffs had been notified of the motion for postponement.[6] No such proof was submitted. Accordingly, on September 2, 1972, the trial judge issued an order declaring the case submitted for decision on the basis of the evidence so far presented by the parties.[7]

The petitioner received a copy of this order on October 12, 1972.[8] Ten days later, Atty. Alfaro filed a motion for reconsideration on the ground of excusable negligence and/or honest mistake, alleging that his client had

misunderstood his telegram asking her to notify the private respondent herself as he did not have enough money for the additional telegrams.[9] This motion was denied on January 19, 1973. [10] On January 31, 1973, Atty. Alfaro's, motion to withdraw as petitioner's counsel was granted[11] and Atty. Gilberto C. Alfafara filed his entry of appearance as replacement on March 10, 1973, coupled with the request that the court inform him of the status of the case.[12] Decision on the merits was rendered on March 15, 1973, and a copy thereof was received by the petitioner on March 23, 1973.[13] On April 16, 1973, she filed a motion for new trial, which was denied on May 14, 1973.[14] She was notified of the denial on May 25, 1973.[15] The petitioner filed her notice of appeal and appeal bond on May 31, 1973, and the original record on appeal the following day, June 1, 1973.[16] On June 12, the private respondents filed a motion to dismiss the petitioner's appeal on the ground of tardiness, followed by an amended motion on July 5, 1973, amplifying their original motion.[17] After hearing, the trial court dismissed the appeal and ordered the issuance of a writ of execution.[18]

On August 9, 1973, the petitioner elevated the case on certiorari to the Court of Appeals, which denied the same on July 15, 1976.[19] A motion for reconsideration was likewise denied on August 30, 1976.[20] Notice of this denial was received on September 13, 1976, by the petitioner, who came to this Court on November 9, 1976, for certiorari under Rule 45 of the Rules of Court.[21] Her petition was denied for lack of merit on January 26, 1977 but, upon our reconsideration of the denial, given due course on May 6, 1977, with the parties being required to file their respective memoranda.[22] Only the private respondents did so despite the extension granted to but not availed of by the petitioner. The case was considered submitted for decision without her memorandum.[23]

We find no error in the decision of the Court of Appeals. The petitioner has only herself to blame if judgment was rendered against her in the light of the circumstances above narrated. The Court is not unfamiliar with the ploy resorted to by losing parties of complaining that their right to due process has been violated where the rules of procedure they have not observed are applied against them. Such ploys do not persuade.

The petitioner argues that in denying her motion for postponement and considering the case submitted for decision, the trial court deprived her of her chance to fully ventilate her side in the land conflict between her and the private respondents. The record does not support this contention. On the contrary, it appears that she filed a motion for reconsideration in which she argued that she had not understood her counsel's telegram that she take care of informing the private respondents of the telegraphic motion for postponement. She was heard by the trial court. If it nevertheless did not accept her explanation of honest mistake or excusable negligence, this did not signify that she was denied due process as she claims. Later, after the decision on the merits was rendered, her new counsel filed for her a motion for new trial, in which she again argued for the setting aside of the decision so she could submit additional evidence to resist the private respondents' claims. If the trial court was not convinced that she had a meritorious case, this too did not mean that she was deprived of her day in court.

The Court notes that Atty. Alfaro had all of ten days after sending his telegrams to file a regular motion for postponement, with copies furnished to the private respondents, conformably to the Rules of Court. He did not do so. Worse, he simply assumed that his telegraphic motion would be automatically granted and did not even bother to check with his client if she had notified the adverse parties of the motion as he had requested. He also assumed they would have no objection. Such assumptions are risky, let alone unjustified. The petitioner cannot contend that she was denied due process just because her lawyer's assumptions proved to be wrong.

Atty. Alfafara complains that he was not informed of the status of the case as he had requested of the trial court when he entered his appearance as the petitioner's new counsel. The argument, as we understand it, is that the court should not have rendered its decision on the merits four days later without first acting on his request. Counsel should have known better. His posture was presumptuous. The trial court was not under any obligation to brief him on the progress of the case, the records of which were available to him for his own examination. It was

for him - or his assistant if he had any - to examine such records for whatever he needed or wanted to know. It is fortunate for him in fact that, instead of reproving him as it could have, the trial court chose merely to ignore his impertinent request.

The motion for new trial filed by the petitioner was deficient in form because it did not comply with Rule 37, section 2, of the Rules of Court. No affidavit of merit was attached, as required, to support the claim of honest mistake or excusable negligence when she failed to notify the private respondents of the telegraphic motion for postponement. As for the second ground, to wit, the insufficiency of the evidence to justify the decision, the trial court took pains to refute the petitioner's contentions, discussing her arguments one by one, and extensively. A careful reading of its order of May 14, 1973, will show that the motion was not denied out of hand in violation of her right to be heard as the petitioner suggests.

This is the reason why we cannot agree with the private respondents' submission that the motion for new trial was merely pro forma and so did not suspend the running of the period for appeal.

The question of the timeliness of the petitioner's appeal was resolved on the basis of the factual finding of both the trial court and the respondent court regarding the date the petitioner was notified of the decision of March 15, 1973. The petitioner claims it was March 25, 1973, but the correct date found was March 23, 1973, as established by the certification made by the postmaster of Cebu City and the registry return card.[24] There is no reason not to accept this determination. Conformably thereto, we also affirm the dismissal of the appeal on the following justification made by the trial court:

"From March 23, 1973, the date a copy of the decision was received by the defendant to April 16, 1973, the date the motion for new trial was filed a period of twenty-four (24) days has elapsed after excluding the first day. Then from May 25, 1973, the day the defendant received a copy of the Order denying her motion for new trial to June 1, 1973, the day she filed and submitted her Record on Appeal, a period of eight (8) days had elapsed. Adding this eight (8) days to the twenty-four (24) days will give a total of thirty-two (32) days. So that when defendant filed her Notice of Appeal and Appeal Bond on May 31, 1973 and the Record on Appeal on June 1, 1973, it was already beyond the reglementary period of thirty (30) days within which a party may be allowed to appeal." [25]

The Court notes that the petitioner could have filed the notice of appeal and the appeal bond within the reglementary period and then asked for an extension to submit the record on appeal if she needed more time to prepare it. No such extension was sought. Among conscientious practitioners, verification of the material dates, especially in connection with the reglementary periods, is a wise and indispensable precaution. This precaution was not taken in this case. Atty. Alfara's claimed mistake of misreading the date when the notice of the decision of March 15, 1973, was received - considering what he calls the ambiguity in the writing of the disputed ciphers - is, if anything, but still another proof of his inexcusable carelessness. It also does not advance the petitioner's cause that she first claimed she had received the notice on May 25, 1973, and then, when confronted with evidence to the contrary, averred that she had misread the figure "23" as "25."

The petitioner says she was also denied due process when the trial court resolved the motion to dismiss the appeal and the supplemental motion filed later by the private respondents although she had not yet been given an opportunity to file an opposition to the supplemental motion. She stresses that she learned of the amended motion only at the hearing scheduled, as she thought, only on the original motion. We find no such denial. The supplemental motion was actually but an amplification of the original motion and merely adduced additional evidence to support the contention that the appeal had not been filed on time. The second motion was based on the same ground invoked in the first motion. By any reasonable standard, rejection of this contention by the trial court and the respondent court cannot be considered arbitrary.

And now, to rectify her tardiness, the petitioner would ask us to consider her subsequent petition for certiorari with the respondent court as a substitute for her lost appeal. Obviously, this should not be permitted. As we have repeatedly held in innumerable cases:

"x x x Where another such remedy like an appeal may be taken, certiorari does not lie. And, it is by now abundantly clear that certiorari may not be utilized to offset the adverse effect of failure to appeal.

"Here, petitioner had the remedy of appeal from the judgment of respondent judge. In fact, he did attempt to appeal. But this appeal was dismissed by this Court for failure to pay the docket fee on time. He cannot revive his appeal. He had lost it through his own fault. Certiorari is no substitute for appeal."[26]

"Where an appeal would have been an adequate remedy but it was lost through petitioner's inexcusable negligence, certiorari is not in order. Time and again, this Court dismissed petitions for certiorari to annul decisions or final orders which could have, but were not, appealed. They were dismissed because certiorari cannot take the place of an appeal."[27]

Curiously, while insisting that her appeal was filed on time, the petitioner would also justify her petition for certiorari with the respondent court as an exception to the above-discussed rule. The simple justification she offers for her inconsistency is that the judgment rendered by the trial court in Civil Case No. R-1564 was void ab initio for violation of due process and therefore correctible by the present petition for certiorari.

If that be so, the Court can only wonder why she attempted to file her appeal in the first place instead of coming directly to the respondent court in the petition for certiorari she claims is proper. The fact that she sought to file an ordinary appeal clearly shows that she herself believed that the claimed errors of the trial court were appropriate for review only in that appeal and not by certiorari. It is obvious that when she subsequently filed the petition for certiorari after her appeal had been dismissed for tardiness, she was availing herself of the second remedy only as a substitute for her lost appeal. The petitioner forgets that the two remedies are mutually exclusive and not alternative or successive.

Recapitulating, we find that the petitioner's counsel did not comply with the requirements of the Rules of Court when he sent the telegraphic motion for postponement; that he did not rectify the deficiency even if he had sufficient time to do so before the hearing sought to be postponed; that it was therefore not improper for the trial court to consider the case submitted for decision on the basis of the evidence presented so far by the parties; that the petitioner had and enjoyed the chance to be heard through her motion for reconsideration and her subsequent motion for new trial: that the alleged errors sought to be reviewed were reversible only in an ordinary appeal, that this appeal was, however, not filed on time; and that the petition for certiorari with the respondent court could not be resorted to by the petitioner as a substitute for her dismissed appeal. The respondent court was therefore correct in denying the said petition.

We conclude as we began, by stressing that procedural rules are not to be belittled or dismissed simply because their non-observance may have resulted in prejudice to a party's substantive rights, as in this case. Like all rules, they are required to be followed except only when for the most persuasive of reasons they may be relaxed to relieve a litigant of an injustice not commensurate with the degree of his thoughtlessness in not complying with the procedure prescribed. Such reasons are not present here. We do not find that compelling justification for the exception sought and so must sustain the respondent court. While it is true that a litigation is not a game of technicalities, this does not mean that the Rules of Court may be ignored at will and at random to the prejudice of the orderly presentation and assessment of the issues and their just resolution. Justice eschews anarchy.

WHEREFORE, the petition is DENIED and the challenged decision of the respondent court is AFFIRMED, with costs against the petitioner. This decision is immediately executory.

SO ORDERED.

Narvasa, (Chairman), Gancayco, Griño-Aquino, and Medialdea, JJ., concur.

[1] De Castro, J., ponente, with L. B. Reyes and Ericta, JJ.

[2] Original Record, p. 17.

[3] Rollo, p. 16.

[4] Ibid., pp. 25-26.

[5] Id., p. 23.

[6] Id., p. 24.

[7] Id., pp. 24-25.

[8] Id., p. 25.

[9] Original Record, pp. 10-11.

[10] Ibid., pp. 14-16.

[11] Id., p. 13.

[12] Rollo, p. 9.

[13] Original Record, pp. 17-75,; Rollo, pp. 33-34.

[14] Rollo, pp. 26-27.

[15] Ibid., p. 27.

[16] Id.

[17] Original Record, pp. 91-93; Rollo, p. 10.

[18] Ibid., pp. 99-101.

[19] Id., pp. 1-7; Rollo, pp. 22-38.

[20] Original Record, p. 262.

[21] Rollo, pp. 6-21.

[22] Ibid., pp. 61; 80.

[23] Id., p. 102.

[24] Id. p. 34.

[25] Original Record, p. 100.

[26] *Fernando v. Vasquez*, 31 SCRA 288.

[27] *People v. Villanueva*, 110 SCRA 465.

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.