

CUEVASVILLE REALTY AND DEVELOPMENT CORP., PETITIONER, VS. BENJAMIN DAYACAP, ET. AL., RESPONDENTS.

Ponente: SADANG, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/d553e89526ce/>

SADANG, J.:

This treats of plaintiff-appellant's Motion for Reconsideration of our Resolution, dated October 15, 2014, dismissing its appeal for failure to file appellant's brief. Plaintiff-appellant alleges that the notice to file brief was received by Atty. Arciaga, an associate in Madamba and Apostol Law Offices, its counsel; unfortunately, Atty. Arciaga misfiled said notice and the law firm came to know of the dismissal of the appeal only when it received the Resolution.

Defendant-appellee Estate of Primitivo Dayacap filed a Comment/ Opposition to the motion contending that the reason given by plaintiff-appellant is not excusable negligence that warrants reconsideration of the resolution and that plaintiff-appellant did not even bother to attach the affidavit of Atty. Arciaga.

Plaintiff-appellant filed a Supplemental to the motion for reconsideration alleging that the affidavit of Atty. Arciaga was not submitted because he has no forwarding address.

The motion for reconsideration must be denied.

The misfiling of the notice to file appellant's brief by an associate of the law firm representing plaintiff-appellant does not excuse the non-filing of said pleading within the reglementary period. Plaintiff-appellant's counsel is a law firm which is expected to adopt and strictly maintain a system that insures that all pleadings should be filed and duly served within the period therefor.[1] It is settled that the failure of counsel to file appellant's brief on time is inexcusable negligence. As held in *Philippine Rabbit Bus Lines, Inc. v. Goimco*:

We note that petitioner's previous counsel is a large law firm with several lawyers in its roster. Yet it took said counsel four (4) months, from the expiration of the reglementary period, within which to file the appellant's brief. It is settled that failure to file brief for a client constitutes inexcusable negligence. Petitioner's flimsy excuse that its counsel's log-book was lost is, to say the least, most unpersuasive. Said counsel should have examined consistently the records of its cases to find out what appropriate actions have to be taken thereon. The notice to file the appellant's brief was in the records of the instant case all along. Had counsel been efficient in the handling of its cases, the required appellant's brief could have been filed on time. Its failure to do so is an inexcusable negligence.[2]

WHEREFORE, the Motion for Reconsideration is DENIED for lack of merit.

SO ORDERED.

Librea-Leagogo, J., Chairperson, and Diamante, JJ., concur.

[1] *Asian Spirit Airlines (Airline Employees Cooperative) v. Bautista*, G.R. No. 164668, February 14, 2005, 451

SCRA 294.

[2] G.R. No. 135507, November 29, 2005, 476 SCRA 361, 367.

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.