

TEOFILA TORIBIO, PETITIONER, VS. ABDULWAHID BIDIN, JUDGE OF THE COURT OF FIRST INSTANCE OF ZAMBOANGA CITY, AND VICENTE COVARRUBIAS AND CLARA MONTJOJO, SPOUSES, RESPONDENTS.

G.R. No. L-37960. February 28, 1980

Ponente: CONCEPCION, JR., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/d9e0a81d7240/>

CONCEPCION, JR., J.:

Petition for certiorari to annul and set aside the order of the respondent Judge, dated June 27, 1973, denying the petitioner's "Motion to Appeal" in Civil Case No. 1260 of the Court of First Instance of Zamboanga City, entitled: "Teofila Toribio, et al., plaintiffs, versus Vicente Covarrubias, et al., defendants," as well as the orders dated July 20 and August 14, 1973, denying her motions for the reconsideration of the said order; and mandamus, to direct the respondent Judge to give due course to her appeal.

The record shows that on April 2, 1969, the herein petitioner, Teofila Toribio, assisted by her husband, Francisco de la Cruz, filed an action, in forma pauperis, with the Court of First Instance of Zamboanga City, docketed therein as Civil Case No. 1260, against the spouses Vicente Covarrubias and Clara Montjojo, for the recovery of possession, with damages, of a certain parcel of land with an area of about 5 hectares, situated at Cacao, Manicahan, Zamboanga City, which the said defendants are occupying to the prejudice of the plaintiffs. After trial thereof, or on April 25, 1973, the respondent Judge rendered judgment, dismissing the complaint without pronouncement as to costs.[1]

A copy of the decision was received by the petitioner on May 3, 1973, and the next day, she filed a "Motion to Appeal" wherein she manifested her intention to appeal the decision to the Court of Appeals, and prayed that she be allowed to appeal as pauper in accordance with Section 16, Rule 41 of the Rules of Court.[2] The motion was set for hearing on May 12, 1973, but since the respondent Judge was on vacation, the hearing of the motion was reset to June 2, 1973. However, on motion of the petitioner, the hearing was transferred to June 9, 1973.[3] In the meantime, the defendants therein, now private respondents, filed an opposition to the Motion to Appeal, claiming that "the matters involved in said motion has become moot and academic since the period in which to appeal has already lapsed and no appeal was perfected." [4]

On June 27, 1973, the respondent Judge issued an order denying the "Motion to Appeal" for the reason that the herein petitioner had not submitted a record on appeal within the reglementary period so that "it would be an exercise in futility for this Court to grant plaintiffs' Motion to Appeal as pauper since the decision sought to be appealed had become final." [5]

The petitioner filed a motion for the reconsideration of this order upon the ground that the filing of her Motion to Appeal suspended the period for the perfection of an appeal since a pauper litigant is not required to file a record on appeal.[6] In support thereof, she cited the case of *Matute vs. Macadaeg*. [7]

The motion was denied on July 20, 1973,[8] and on August 6, 1973, the petitioner filed a second motion for reconsideration, insisting that, as pauper litigant, she is not required to submit a record on appeal. She attached a record on appeal for the approval of the court.[9] When the respondent Judge denied the said motion on August 14, 1973,[10] she filed the instant petition.

The petition is without merit. The authority to sue or appeal as pauper does not exempt the pauper litigant from filing the notice of appeal and the record on appeal in due time. Section 22, Rule 3 of the Rules of Court provides:

"Sec. 22. Pauper litigant. - Any court may authorize a litigant to prosecute his action or defense as a pauper upon a proper showing that he has no means to that effect by affidavits, certificate of the corresponding provincial, city or municipal treasurer, or otherwise. Such authority once given shall include an exemption from payment of legal fees and from filing appeal bond, printed record and printed brief. The legal fees shall be a lien to any judgment rendered in the case favorably to the pauper, unless the court otherwise provides."

As will be seen, a pauper litigant is exempted from submitting a printed record on appeal. Both in appeals by paupers and non-paupers, a record on appeal should be submitted. The only difference is that in the case of the pauper, the latter need not print it. Typewritten or mimeographed copies of the record on appeal will suffice.[11]

The case of *Matute vs. Macadaeg*, cited by the petitioner, is of little application since a record on appeal had been filed in the case within the period for the perfection of appeals, and the issue therein litigated is the timeliness of the filing of an appeal bond by a pauper litigant who is exempt from filing an appeal bond. In the said case, the petitioners were allowed to sue as paupers.

In the case at bar, the petitioner, Teofila Toribio, received a copy of the decision of the trial court on May 3, 1973. On May 4, 1973, she filed a "Motion to Appeal" wherein she manifested her intention to appeal from the decision to the Court of Appeals (par. 1, thereof), and prayed that she be allowed to appeal as pauper in accordance with Section 16, Rule 41 of the Rules of Court. On August 6, 1973, she submitted a record on appeal.

Under Section 3, Rule 41 of the Rules of Court, an appeal may be taken by serving upon the adverse party and filing with the trial court within 30 days from notice of the order of judgment, a notice of appeal, an appeal bond, and a record on appeal. Since the petitioner had been previously allowed to litigate as pauper, she is exempt from filing an appeal bond.[12] Such being the case, and considering that the "Motion to Appeal" contains all the elements of a notice of appeal, i.e., it contains the names of the parties to the appeal, the judgment or order appealed from, and the court to which the appeal is taken,[13] the pleading should be considered as a notice of appeal. But, while this pleading was filed the day after receipt of the decision sought to be appealed, the record on appeal was filed on August 6, 1973, well beyond the expiration of the period for perfecting appeals. Since the period to perfect an appeal had already lapsed when the record on appeal was submitted on August 6, 1973, the appeal should be dismissed.[14]

Although the Court has ruled that the Rules should be liberally interpreted as regards the period to perfect an appeal so as to afford litigants just, speedy and inexpensive determination of their controversy, the discretion to allow or admit an appeal filed out of time should be based upon legal justification. The Court has also stressed the merit of the appeal to justify a review on equitable grounds.[15]

In the instant case, the decision of the trial court appears to be correct so that the allowance of the appeal of the petitioner would serve no useful purpose and would merely delay the administration of justice. Here, the petitioner predicates her right to occupy the disputed parcel of land from her father, Cirilo Toribio, who had filed a homestead application for the said land. Sometime in 1952, however, Cirilo Toribio sold the land in question to his brother-in-law, Felix Francisco, and went to Tungawan, Zamboanga del Sur, where he applied for another parcel of land. The homestead application of Cirilo Toribio for the disputed parcel of land conflicted with that of

Jose L. Francisco so that on March 15, 1957, the Director of Lands ordered Cirilo Toribio to file a new homestead application for the remaining uncontested portion, otherwise his preferential right to the land would be lost. But, Cirilo Toribio did not file any application therefor. Instead, Felix Francisco, to whom Cirilo Toribio had previously sold the land, filed an application of his own. His homestead application was given due course and was approved by the Director of Lands on April 30, 1960. Previous to its approval, however, or on March 24, 1960, Felix Francisco sold the land to the herein private respondents, spouses Vicente Covarrubias and Clara Montojo, who have been in possession of the land since then. The record does not show whether or not the sale of the homestead was approved by the Director of Lands. Cirilo Toribio died in 1967, and in 1969, the petitioner filed the instant action to recover possession of the land from Vicente Covarrubias and Clara Montojo.[16]

Under the foregoing facts, it is very clear that the petitioner, Teofila Toribio, has no right to possess the disputed parcel of land. While her father had filed a homestead application for the land, Cirilo Toribio had voluntarily relinquished possession of the land to Felix Francisco who filed a homestead application therefor, which application was approved by the Director of Lands. Since Cirilo Toribio had no right over the land which he could transmit to his heirs upon his death, the petitioner acquired nothing. The fact that the sale of the homestead to the spouses Vicente Covarrubias and Clara Montojo was not made with the prior approval of the Director of Lands will not confer upon the petitioner a better title than that of the private respondents. The premature sale of a homestead may be a ground for reversion, but that is a matter between the State and the homesteader and the transferee.

WHEREFORE, the petition should be, as it is hereby, DISMISSED. No costs.

SO ORDERED.

Barredo, (Chairman), Antonio, Aquino, and Abad Santos, JJ., concur.

[1] Rollo, p. 6.

[2] Id., p. 16.

[3] Id., p. 3; par. 11 of Petition.

[4] Id., p. 17.

[5] Id., p. 18.

[6] Id., p. 25.

[7] 93 Phil. 761.

[8] Rollo, p. 26.

[9] Id., p. 27.

[10] Id., p. 29.

[11] Section 5, Rule 46 of the Rules of Court.

[12] Section 22, Rule 3, Rules of Court.

[13] Sec. 4, Rule 41, Rules of Court.

[14] Sec. 13, Rule 41, Rules of Court.

[15] Catindig vs. Court of Appeals, L-33063, Feb. 28, 1979; and other cases cited therein, 88 SCRA 675; Rose Industries Inc. vs. Court of Appeals, L-45581, Dec. 29, 1978, and other cases cited therein, 87 SCRA 452.

[16] See Decision, Rollo, pp. 6-15.

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.