

VIOLETA BATARA AND ROY BATARA, PETITIONERS, VS. COURT OF APPEALS, JULIAN AND ROSARIO PUNONGBAYAN AND SPS. GIL AND ERLINDA OBSEQUIO, RESPONDENTS.

G.R. No. 127906. December 16, 1998

Ponente: BELLOSILLO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-127906/>

BELLOSILLO, J.:

The timeliness of an appeal is a jurisdictional caveat that not even this Court can trifle with. It is only the existence of a highly exceptional circumstance that can allow it to relax this rule.

The main subject of this petition for review on certiorari is the disapproval by the RTC- Br. 72, Olongapo City, of petitioners' Notice of Appeal in accordance with its Order[1] of 11 March 1996 which respondent Court of Appeals affirmed in its challenged decision and resolution of 5 November 1996 and 21 January 1997, respectively.[2]

Two (2) separate actions were filed and thereafter consolidated by agreement of the parties. The first suit was for recovery of possession of real property with preliminary injunction initiated by private respondents herein, spouses Julian and Rosario Punongbayan, docketed as Civil Case No. 129-0-92. The second one was for quieting of title, annulment of TCT No. T-5448 with prayer for a writ of preliminary injunction and/or temporary restraining order and damages brought by petitioner Violeta Batara against the other private respondents, spouses Gil and Erlinda Obsequio, along with the Punongbayan spouses and the Register of Deeds of Olongapo City, docketed as Civil Case No. 256-0-92.[3]

The record shows that these two (2) cases stemmed from a Deed of Assignment executed by spouses Gil and Erlinda Obsequio in favor of petitioner Violeta Batara on 15 December 1985. The deed, which remains unregistered, involves a parcel of land, Lot 16, Block 2, of Subd. Plan Psd. 03-019374, then covered by TCT 3021 but subsequently substituted by TCT No. 5448 by virtue of which the Batara spouses took possession of subject property.[4]

The deed of assignment specifically provides that after a down payment of P15,484.00 the assignee Violeta Batara shall pay the balance of P66,936.00 in equal monthly installments of P557.80 each until its full payment.[5] Paragraph (10) of the terms and conditions thereof further reads:[6]-

10. That upon failure of the Assignee to pay when due three (3) monthly installments or to comply with any term or condition therein, in which case, (sic) the Assignor shall have the right to re-assign all her rights, interests and participation over the portion of the parcel of land x x x to any person, as if this Contract has never been entered into. In such case of cancellation of this Contract, all amounts paid for in accordance with this agreement, together with all the improvements made on the premises, shall be considered as rentals for the use and occupancy of the said premises and as liquidated damages suffered of (sic) the Assignor x x x x

Petitioner Violeta Batara paid the stipulated three-month down payment: P2,000.00 on 21 September 1985,

P1,000.00 on 15 October 1985, and P12,484.00 on 15 December 1985, the date of execution of the deed of assignment.[7] Thereafter, or from January to September 1990, Violeta made irregular payments of P500.00 to the Obsequio spouses, two (2) of respondents, on various dates.[8]

Meanwhile, on 26 March 1990, respondent Erlinda Obsequio mortgaged the subject land to her co-respondents, the Punongbayan spouses.[9] After 29 September 1990 petitioners stopped paying the installments altogether since they were informed in April 1990 of the mortgage by the Punongbayans.[10] On 23 December 1991 respondent Erlinda Obsequio sold the land to the same mortgagees who lost no time in having the corresponding Deed of Absolute Sale registered in their name under TCT No. T-5448.[11] Thus, Civil Case No. 129-0-92 for recovery of possession was filed on 24 March 1992 by the Punongbayans against petitioners who were in turn prompted to bring an action for quieting of title on 15 June 1992 against the Punongbayans and the Obsequios.[12]

On 25 October 1995 the trial court rendered its decision upholding the validity of the deed of sale between the Obsequios and the Punongbayans and awarding consequently the possession in favor of the vendees. Petitioners were further ordered to pay attorney's fees of P15,000.00 and P10,000.00 to the Punongbayans and Obsequios, respectively, and to pay the costs of suit.[13]

On 6 November 1995 counsel for petitioners received the decision of the court a quo who within the reglementary period filed a motion for reconsideration by mail. In its Order of 13 February 1996, received by petitioners' counsel on 23 February 1996,[14] the court denied the motion for lack of merit.

On 5 March 1996 petitioners filed a Notice of Appeal. However, it was disapproved by the trial court on 11 March 1996 for having been filed beyond the mandatory and jurisdictional 15-day reglementary period or after "a total period of twenty (26) days elapsed." [15]

On 15 April 1996 petitioners sought to set aside the Order of the trial court of 11 March 1996 through a petition for certiorari and mandamus under Rule 65 of the Rules of Court. On 5 November 1996 respondent Court of Appeals denied the petition on the ground that (a) the appeal was filed "after twenty-two (22) days had already elapsed, to the effect that the appeal was late by seven (7) days;" (b) a petition for certiorari under Rule 65 could not lie as a substitute for a lost appeal; and (c) only errors of jurisdiction were correctible by a special civil action for certiorari, hence, it could not look into the merits of the case nor correct errors of procedure and judgment by the trial court.[16]

On 21 January 1997 the Court of Appeals denied petitioners' motion for reconsideration. Petitioners now come to us alleging that respondent appellate court erred in affirming the disapproval of their Notice of Appeal by the trial court, and in ruling that a discussion on the merits of their case was improper and beyond its jurisdiction.[17]

The petition is without merit. Petitioners invoke jurisprudential precepts allowing appeals filed beyond the 15-day reglementary period, citing *Siguenza v. Court of Appeals*,^[18] *Philippine National Bank (PNB) v. Court of Appeals*,^[19] and *De Guzman v. Sandiganbayan*,^[20] and insist that their case raises transcendental matters and is of such importance that it ought to be fully litigated in this certiorari proceeding otherwise there would be a denial of their right to due process by giving premium to form rather than to substantial justice. In *Siguenza*, the appeal filed thirteen (13) days late was allowed "since on its face the appeal appeared to be impressed with merit." Thus, this Court found sufficient basis to decide the case on the merits rather than remand it to the lower court.^[21] In *PNB*, we allowed the appeal belatedly filed three (3) days beyond the reglementary appeal period "in the higher interest of justice x x x (f) or to bar the appeal would be inequitable and unjust when viewed in the light of the trial court's decision x x x x" We further took notice of the detailed demonstration by petitioners therein of the merits of their case which convinced us that they deserved the amplest opportunity for the proper and just determination

of their controversy.[22] In *De Guzman*, relaxing procedural rules to give way to substantial justice, this Court ruled -

The power of this Court to suspend its own rules or to except a particular case from its operations whenever the purposes of justice require it, cannot be questioned. (cited cases omitted) x x x [In] a considerable host of cases has this prerogative been invoked to relax even procedural rules of the most mandatory character in terms of compliance, such as the period to appeal x x x x Clearly, when 'transcendental matters' like life, liberty or State security are involved, suspension of the rules is likely to be welcomed more generously.[23]

Beyond saying that the denial of their appeal was a triumph of technical rules of procedure over substantial justice, thus depriving them of their right to due process, the seemingly "transcendental issue" mentioned in petitioners' Memorandum before us is that the delay of seven (7) to eleven (11) days in the filing of their notice of appeal arose from the mistaken notion of their counsel that the period to file such notice was a fresh period of fifteen (15) days from receipt of the denial of their motion for reconsideration.[24] This matter was not even averred in their certiorari petition before respondent Court of Appeals, nor in this petition.

Unlike the cases herein cited, this petition on its face is not impressed with merit. Definitely, the negligence and gross ignorance of petitioners' counsel relative to a basic rule of law or procedure cannot qualify as "transcendental matters" which can outweigh technicalities.

Notably, in one case[25] where a strong typhoon was being invoked as a supervening event that prevented the filing of an appeal on time, we still denied the appeal because "[I]t was not the typhoon which caused the delay in filing the notice of appeal. It was the dilly-dallying, negligence, and lack of attention of the petitioners' counsel." [26]

In the instant case, the reason for the delay in filing the notice of appeal was the counsel's erroneous understanding of the law on appeal. Certainly, it is neither compelling enough nor does it impress us as a highly exceptional circumstance to depart from the rule that "the perfection of an appeal in the manner and within the period prescribed by law is not only mandatory but jurisdictional and failure to perfect an appeal has the effect of rendering the judgment final and executory." [27]

Before we evaluate the second assigned error attributed by petitioners to respondent court, it is relevant to point out that both the trial court and the appellate court were not accurate in computing the period to appeal in question. The trial court in its 11 March 1996 Order[28] stated -

It appearing that the Decision dated October 25, 1995 was received by Atty. Rebeck Espiritu on November 6, 1995, and a Motion for Reconsideration was filed on November 21, 1995 thru the mails for a period of fifteen (15) days has elapsed, from the date of the filing of the said Motion for Reconsideration on the last date and after the Motion for Reconsideration was filed on November 21, 1995 was denied in the Order of February 13, 1996, copy of denial having been received on February 23, 1996, while the Notice of Appeal was filed thru the mails on March 5, 1996 or a period of eleven (11) days has elapsed on the date of the filing of the said Notice of Appeal or a total period of twenty-six (26) days elapsed when the said Notice of Appeal was filed, the said Notice of Appeal was filed beyond the reglementary period of 15 days x x x x

On the other hand, the Court of Appeals in its 5 November 1996 Decision[29] ruled -

Even if we were to consider as the correct dates the one(s) alleged in the petition, more particularly, November 6, 1995 as the date petitioner(s) received copy of the questioned decision; November 17, 1995, as the time petitioner(s) filed the motion for reconsideration of the decision; February 23, 1996 as the date petitioners received the denial of their motion for reconsideration; and March 5, 1996, when petitioners filed their notice to appeal, twenty (22) days had already elapsed, to the effect that the appeal was late by seven (7) days x x x x

In the case before us, the applicable law is the last paragraph of Art. 13 of the Civil Code which reads: "In computing a period, the first day shall be excluded and the last day included." Here, counsel for petitioners received copy of the trial court's decision on 6 November 1995. A motion for reconsideration dated 17 November 1995 was mailed and considered filed by the court a quo on 21 November 1995 which was the last day of the 15-day period within which an appeal may be perfected. In computing petitioners' period to appeal, this last day should be excluded so that when their counsel received copy of the order denying the motion for reconsideration on 23 February 1996 petitioners still had one (1) day within which to perfect an appeal. This one day should again be computed in accordance with the manner aforesaid. By excluding the date of receipt and including the next day which was 24 February 1996, a Saturday, the delay incurred by petitioners reckoned therefrom totalled ten (10) days as they filed their notice of appeal only on 5 March 1996.[30]

Petitioners argue that a discussion on the merits is required, even in the special civil action for certiorari, as they were left in this case with no other remedy to assail the gross misapprehension of facts by the trial court. They conclude that such amounts to lack of jurisdiction hence correctible by certiorari.

We are not convinced. Although the rule that a special civil action for certiorari is not a substitute for lost appeal admits certain exceptions as enumerated in *Sanchez v. Court of Appeals*,[31] none of such exceptions obtains in this case where appeal was still the speedy and adequate remedy for petitioners to contest the factual findings of the lower court. The fact that they failed to do so on account of sheer inexcusable negligence cannot sustain a petition for certiorari in the Court of Appeals. Hence, the final and executory judgment of the trial court resulting from petitioners' failure to seasonably file an appeal can no longer be disturbed by this petition.

WHEREFORE, the petition is DENIED. The Decision of respondent Court of Appeals of 5 November 1996 and its Resolution of 21 January 1997 both affirming the disapproval by the RTC-Br. 72, Olongapo City, of petitioners' Notice of Appeal are AFFIRMED.

SO ORDERED.

Puno, Mendoza, and Martinez JJ., concur.

[1] Order issued by Judge Eliodoro G. Ubiadas, RTC-Br. 72, Olongapo City.

[2] Decision and Resolution penned by Justice Jorge S. Imperial and concurred in by Justices Corona Ibay Somera and Celia Lipana-Reyes, CA Rollo, pp. 115-120, 145.

[3] RTC 25 October 1995 Decision, pp. 1-2; Original Records, pp. 188-189.

[4] Exh. "A, Civil Case No. 256-0-92; Exh. "1," Civil Case No. 129-0-92; id., pp. 126-128.

[5] Id., p. 127.

[6] Ibid.

[7] Id., p. 129.

[8] Id., pp. 130-135.

[9] Id., pp. 138-139.

[10] See Note 3, p. 206.

[11] Id., p. 209.

[12] Original Records, pp. 1-4; 18-27.

[13] Id., p. 211.

[14] CA Rollo, p. 75.

[15] See Note 12, p. 213.

[16] See Note 14, pp. 118-120.

[17] Rollo, pp. 17-18.

[18] No. L-44050, 16 July 1985, 137 SCRA 570.

[19] G.R. No. 108870, 14 July 1995, 246 SCRA 304.

[20] G. R. No. 103276, 11 April 1996, 256 SCRA 171.

[21] See Note 18, pp. 576-577.

[22] See Note 19, p. 319.

[23] See Note 20, pp. 177-178.

[24] Rollo, p. 113.

[25] Municipality of Obando, Bulacan v. Intermediate Appellate Court, G.R. No. 73558, 29 September 1987, 154 SCRA 363.

[26] Id., p. 368.

[27] Almeda v. Court of Appeals, G.R. No. 121013, 16 July 1998.

[28] Rollo, pp. 34-35.

[29] See Note 2, p. 118.

[30] See Lloren v. De Veyra, No. L- 13929, 28 March 1962, 4 SCRA 637. (N.B.: Under the 1997 Rules of Civil Procedure, Rule 22, sections 2 and 3 contain a detailed presentation of computing periods of time and include Saturday in the rule that the time shall not run until the next working day).

[31] G. R. No. 108947, 29 September 1997, 279 SCRA 647, 671.

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.