

**FEDERICO, LEONOR, ADELAIDA, ARANZAZU, JOSEFINA AND JAIME,
ALL SURNAMED DE LOS ANGELES, PETITIONERS, VS. HON. SOTERO
CABAHUG, ET AL., RESPONDENTS.***G. R. No. 13126. December 29, 1959*

Ponente: GUTIERREZ DAVID, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-13126/>**GUTIERREZ DAVID, J.:**

In the appealed case of Vicente Santiago, plaintiff-appellant vs. Sixto de los Angeles, et al., defendants-appellees (CA-G.R. No. 16631-R), the Court of Appeals rendered a decision on June 20, 1957. On July 8, 1957 defendants moved for extension of time within which to file a motion for reconsideration. This motion was opposed by plaintiff on the ground that it was filed out of time because defendants had received copy of the decision on June 21, 1957. Defendants replied that it was only on June 24, 1957 that they have received copy of the decision. With their first motion still unresolved, defendants filed two other motions for extension of time. On July 25, 1957, they filed their motion for reconsideration, which plaintiff moved to strike out for being untimely. On July 26, 1957 respondent court issued a resolution denying defendants' motion dated July 8, 1957 on the finding that it was filed out of time. Entry of judgment was made on July 30, 1957. Subsequently respondent court denied defendants' two other motions for extension of time, as well as their motion for reconsideration.

Hence this petition to annul the aforesaid resolutions denying petitioners' motions for extension of time and motion for reconsideration; to annul the entry of judgment; and to compel respondent court to receive evidence as to the real date petitioners received copy of the decision.

Petitioners aver in their pleadings that their first motion was filed on time because their counsel received copy of the decision not on June 21, 1957, as found by respondent court, but on June 24, 1957; that when said copy was delivered by the court messenger, the janitor in the office of petitioners' counsel stamped the wrong date (June 21, 1957) on the delivery receipt; and that when the receipt was brought to Atty. Bernardo P. Pardo—who was then in charge of the office for his signature, he noticed the mistake, so he superimposed the correct date (June 24, 1957) on the stamped date—by changing number 1 to 4, initialed the correction and then wrote the correct date under his signature.

Proof of personal service shall consist of a written admission of the party served (Section 10, Rule 27, Rules of Court). However the delivery receipt signed by Atty. Pardo appears to have been tampered with. The date stamped thereon was "June 21, 1957," but the numeral "4" had been handwritten over the "1", st. that it now reads "June 24, 1957". Owing to this suspicious irregularity, respondent court resorted, to an Examination of its own records, particularly the delivery receipt for the copy of decision, signed by respondent Santiago's counsel and the court messenger's daily reports of official service rendered outside the office. The court messenger's report dated June 22, 1957 shows copy of the decision was delivered to petitioners' counsel on June 21, 1957; whereas his report dated June 25, 1957 makes no mention whatsoever of the delivery of such copy. Certifications to a similar effect were made by the clerk in the Judgment Section and by the First Deputy Clerk and Chief, Judicial and

Administrative Division of the respondent court.

Petitioners claimed that the court messenger had the habit of preparing the next day's report before leaving the office to make his deliveries, so that in his June 22 report he asserts having delivered copy of the decision on June 21, although he actually failed to do so. In disposing of this contention, the respondent court reasoned out correctly that if that was the court messenger's practice and he had failed to deliver the copy on June 21, because the office of petitioner's counsel was allegedly closed, then he would have crossed out said item in his report of June 22 and would have listed it among his June 24 deliveries reported by him on June 25, 1957. This was not done. Contrarily, Vicente Cariño, clerk in the Judgment Section of respondent court categorically averred that the delivery receipt in question was received in this office on June 22, 1957. This finds support in the fact that eight names of counsels listed in the court messenger's report of June 22, 1957 (Annex 2 to respondent's answer) were bracketed together and initialed by Cariño, signifying that he received on said date the delivery receipts for the court papers addressed to said counsels. Among these receipts are the questioned one and that which bears the signature of respondent's counsel. Also, if copy of the decision had been successfully delivered only on June 24, 1957, then the court messenger should have submitted the questioned receipt not to Vicente Cariño, but to R. Makasiar who was the one who received on June 25, 1957 all delivery receipts for deliveries made by the court messenger on June 24, 1957 (Annex 5 to respondent's answer).

Petitioners attempted to explain that the stamping machine of counsel's office printed the wrong date on the questioned receipt due to the fact that some might have played with the machine during the noon break or that in shifting the screw thereof to indicate "p.m." instead of "a.m.", a different screw—the one for the digits—might have been turned. This explanation can not be accepted. It is belied by the fact that in the afternoon of June 24, 1957, the same stamping machine was in good working condition. Indubitable proof of this is the date stamped on another delivery receipt (Annex 7 to respondent's answer) for a copy of respondent court's resolution in another case (CA-G. R. No. 16484) which was delivered to petitioners' counsel at 3:35 p.m. on June 24, 1957. If, as claimed by petitioners, copy of the decision in question had been delivered at 3:40 p.m. on June 24, 1957, then the correct date would have been stamped thereon by the same machine. It is unthinkable that at 3:35 p.m. on June 24, 1957 the stamping machine was in good working condition and then barely five minutes later, it had gone awry. This fact also negatives the contention that the stamping machine might have been improperly manipulated at noontime of the same day.

According to the records, respondent's counsel received copy of the decision at 3:37 on June 21, 1957. His office and that of petitioners' counsel were located in the same building, the Regina Building. It is apparent, therefore, that the court messenger, a few minutes after delivering the copy of the decision to respondent's counsel, delivered the copy for petitioners' counsel, so that the date and the time stamped on the receipt for the latter was "3:40 p.m., June 21, 1957", which date had been subsequently tampered with.

Petitioners insist that they should have been granted by respondent court a chance to present their evidence. But in their pleadings before respondent court, petitioners never sought the opportunity to formally submit evidence. Not even in their motion for reconsideration of respondent court's order of July 26, 1957 did they ask the court for such an opportunity. No hint was made by them that they have further evidence to support their contention. Even in this Court, they have failed to specify the nature of the evidence they would present if given the chance. On the other hand, respondent court had before it all the evidence necessary for a determination of the issue presented. Before it were the questioned receipt, the court messenger's reports dated June 22, 1957 and June 25, 1957; the certifications of its clerk in the Judgment Section and its First Deputy Clerk and Chief, Administrative and Judicial Division, and all the pleadings of the parties, together with the appurtenant papers and affidavits attached thereto.

To support their claim, petitioners rely mainly on the verification (reply to opposition to motion for extension; Annex F to the petition) made jointly by Bernardo P. Pardo, Angel A. Sison and Roberto Samonte to the effect that the office janitor, Samonte, had made a mistake in stamping the erroneous date on the delivery receipt and that Atty. Pardo had corrected such an error. If by evidence petitioners are referring to the testimony of these three persons, allowing them to testify would serve no purpose whatsoever for as heretofore discussed their assertions are belied by respondent court's records and the statements of its employees who are not interested in the case.

Petitioners seek the issuance of the writs of certiorari and mandamus on the ground that respondent court had gravely abused its discretion. Their contention is untenable. Respondent court was fully justified in relying on its record in order to determine the date on which petitioners' counsel received copy of the decision. Matters which ought to be known to judges because of their judicial functions shall be judicially recognized by the court without the introduction of proof (Section 5, Rule 123, Rules of Court). Facts which are ascertainable from the record of a court proceeding are among those matters which judges are supposed to know by reason of their judicial functions. In a case on trial, the court will take judicial notice of its records and of the facts which the record establishes [People vs. Bautista, G. R. No. 40621 (unpublished)]. Hence the respondent court committed no abuse of discretion.

Wherefore, the petition is hereby denied with costs against petitioners.

Bautista Angelo, Labrador, Reyes, J. B. L., Endencia, and Barrera, JJ., concur.
Concepcion, J., concurs in the result.

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.