

PHILIPPINE RABBIT BUS LINES, INC., PETITIONER, VS. NELSON GOIMCO, SR., SPOUSES ISABELO AND REMEGIA LADIA, RESPONDENTS.

G.R. No. 135507. November 29, 2005

Ponente: SANDOVAL-GUTIERREZ, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-135507/>

SANDOVAL-GUTIERREZ, J.:

Before us is a petition for certiorari seeking to set aside the Resolutions[1] of the Court of Appeals dated February 3, 1998 in CA-G.R. CV No. 56176 dismissing the appeal filed by the Philippine Rabbit Bus Liner, Inc., herein petitioner, for its failure to file the required appellant's brief within the reglementary period.

Petitioner is a corporation organized and existing under the Philippine laws and is engaged in business as a common carrier.

On October 17, 1983, petitioner's bus No. 309 collided with a ten-wheeler truck in Dolores, Mabalacat, Pampanga. As a result, several passengers were injured. Nelson Goimco, Sr., herein respondent and one of the passengers, filed with the Regional Trial Court (RTC), Branch 65, Tarlac City, a complaint for breach of contract of carriage against petitioner, docketed as Civil Case No. 6977. Spouses Isabelo and Remegia Ladia (also impleaded herein as respondents), parents of Isabelo Ladia, Jr. who died, likewise instituted a similar complaint with the same court, docketed as Civil Case No. 7054. The two cases were consolidated and jointly heard by the trial court.

After trial, the RTC rendered a Joint Decision, the dispositive portion of which reads:

"WHEREFORE, judgment is rendered in favor of the plaintiffs and against the defendant as follows:

(1)

Defendant is ordered to pay to plaintiff Nelson Goimco, Sr., the amount of P248,157.38 as and by way of actual damages; the amount of P100,000.00 as and by way of moral damages; the amount of P100,000.00 as and by way of exemplary damages; and the amount of P50,000.00 as and by way of attorney's fees;

(2)

Defendant is ordered to pay to the heirs of Isabelo Ladia, Jr., the amount of P50,000.00 for the death of Isabelo Ladia, Jr., the amount of P75,000.00 as and by way of actual damages, and amount of P15,000.00 as and by way of attorney's fees.

(3)

Third-party defendant First Integrated Bonding and Insurance Company is ordered to pay to the defendant the

amount of P50,000.00 by way of reimbursement of liabilities incurred by the defendant as a result of the accident.

SO ORDERED."[2]

Both parties filed their respective motions for reconsideration of the Decision. Petitioner sought to be exonerated from all civil liabilities, while respondents asked for an award corresponding to the loss of income of respondent Nelson Goimco and the late Isabelo Ladia, Jr.

In an Order dated September 7, 1995, the trial court denied petitioner's motion but granted those of respondents Goimco and spouses Ladia, thus:

"WHEREFORE, the decision of this court is hereby amended awarding the amount of P679,629.60 to Nelson Goimco and P100,980.00 to the heirs of Isabelo Ladia, Jr., for loss of income.

SO ORDERED."[3]

Petitioner then, through the law office of Escudero, Marasigan, Sta. Ana & E.H. Villareal, interposed an appeal to the Court of Appeals.

On October 2, 1997, petitioner received a copy of the Order of the Appellate Court directing it to file its appellant's brief within fifteen (15) days or until October 17, 1997. However, despite notice, petitioner did not file the required appellant's brief. Hence, on February 3, 1998, the Court of Appeals dismissed petitioner's appeal pursuant to Section 1 (3), Rule 50 of the 1997 Rules of Civil Procedure, as amended.

Petitioner filed a motion for reconsideration alleging that "the expiration of the reglementary period fell during more or less at the time that the office log book (of its counsel), containing the schedules of hearings and deadlines for pleadings, motions and other documents, inadvertently got lost." [4] Hence, its failure to file the appellant's brief was due to "its (counsel's) mistake or excusable negligence."

On July 29, 1998, the Court of Appeals denied petitioner's motion for reconsideration, holding that its "counsel could have, with ordinary prudence, updated the schedule of hearings and deadlines for the filing of pleadings, briefs and other court papers within a lesser period of 4 months." [5]

Hence, the instant petition for certiorari.

This petition lacks merit.

What petitioner should have filed is a petition for review on certiorari under Rule 45 of the 1997 Rules of Civil Procedure, as amended, not a petition for certiorari under Rule 65 of the same Rules. We have consistently held that certiorari is not a substitute for a lost appeal. [6]

The extraordinary writ of certiorari issues only for the correction of errors of jurisdiction or grave abuse of discretion amounting to lack or excess of jurisdiction. [7] Grave abuse of discretion is such capricious and whimsical exercise of judgment which is equivalent to an excess or lack of jurisdiction, meaning that the abuse of discretion must be so patent and so gross as to amount to an evasion of a positive duty or a virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law, as where the power is exercised in an arbitrary and despotic manner by reason of passion or hostility. [8]

We find that in dismissing petitioner's appeal, the Court of Appeals did not gravely abuse its discretion.

Moreover, the right to appeal is not a natural right or a part of due process. It is merely a procedural remedy of statutory origin and may be exercised only in the manner prescribed by the provisions of law authorizing its

exercise.[9] Hence, its requirements must be strictly complied with.[10] Section 7, Rule 44 of the same Rules provides:

"SEC. 7. Appellant's brief. – It shall be the duty of the appellant to file with the court within forty-five (45) days from receipt of the notice of the clerk that all evidence, oral and documentary, are attached to record, seven (7) copies of his legibly typewritten, mimeographed or printed brief, with proof of service of two (2) copies thereof upon the appellee."

Section 1 (e), Rule 50 likewise states:

"SEC. 1. Grounds for dismissal of appeal. – An appeal may be dismissed by the Court of Appeals, on its own motion or on that of the appellee, on the following grounds:

x x x

(e) Failure of the appellant to serve and file the required number of copies of his brief or memorandum within the time prescribed by these Rules;"

In *Casim v. Floredeliza*,^[11] we stressed that the above Rules are designed for the proper and prompt disposition of cases before the Appellate Court, for they provide for a system under which litigants may be heard in the correct form and manner at the prescribed time in an orderly confrontation before a court whose authority is unquestioned.

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.^[12] Petitioner's flimsy excuse that it's counsel's logbook containing the schedules for the filing of pleadings and hearings 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 cases 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.

It is settled that the mistakes, negligence, and omissions of counsel are binding upon his client.^[13] So should it be in the instant cases.

On petitioner's insistence that it was denied due process, suffice it to say that there is no denial of due process where the adverse ruling was attributable to its counsel's negligence.^[14]

WHEREFORE, the petition is DISMISSED. Costs against petitioner.

SO ORDERED.

Panganiban, (Chairman), Corona, Carpio Morales, and Garcia, JJ., concur.

[1] Rollo, p. 28. Per Associate Justice Fermin A. Martin, Jr. (retired) and concurred in by Associate Justice Conrado M. Vasquez, Jr., and Associate Justice Artemio G. Toquero (also retired).

[2] Rollo, pp. 71-72.

[3] Id. at 75.

[4] Id. at 30-31.

[5] Id. at 31.

[6] Del Mar v. Court of Appeals, G.R. No. 139008, March 13, 2002, 379 SCRA 295, 305, citing Chico v. Court of Appeals, 284 SCRA 33 (1998); BF Corporation v. Court of Appeals, 288 SCRA 267 (1998).

[7] Land Bank of the Phils. v. Court of Appeals, G.R. No. 129368, August 25, 2003, 409 SCRA 455, 479.

[8] Duero v. Court of Appeals, 424 Phil. 12, 20 (2002) citing Cuison v. Court of Appeals, 289 SCRA 159 (1998).

[9] Neplum, Inc. v. Orbeso, 433 Phil. 844, 867 (2002), citing Oro v. Judge Diaz, 413 Phil. 416 (2001), Mercury Drug v. Court of Appeals, 335 SCRA 567 (2000), Ortiz v. Court of Appeals, 299 SCRA 708 (1998).

[10] Neplum, Inc. v. Orbeso, supra, citing Pedrosa v. Hill, 257 SCRA 343 (1996), Del Rosario v. Court of Appeals, 241 SCRA 553 (1995).

[11] 425 Phil. 210, 219 (2002).

[12] Spouses Rabanal v. Atty. Tugade, 432 Phil. 1064, 1071 (2002).

[13] Jose v. Court of Appeals, G.R. No. 128646, March 14, 2003, 399 SCRA 83, 89, citing Yu v. Court of Appeals, 135 SCRA 181 (1985).

[14] See for instance, Que v. Court of Appeals, G.R. No. 54169, November 10, 1980, 101 SCRA 13.

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.