

**MACTAN CEBU INTERNATIONAL AIRPORT AUTHORITY (MCIAA),
PETITIONER, VS. FRANCISCA CUIZON MANGUBAT, WENCESLAWA
CUIZON YCONG, BERNARDO CUIZON, LUCILA CUIZON MENGUITO
AND SANTAS CUIZO...**

G.R. No. 136121. August 16, 1999

Ponente: GONZAGA-REYES, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-136121/>

GONZAGA-REYES, J.:

This is a petition for review of the decision rendered by the Court of Appeals dated June 29, 1998 in CA-GRSP no. 46358.

On June 13, 1997 Branch 27 of the Regional Trial Court of Lapu-lapu City rendered judgment in RTC-CV 4237-L entitled Francisca Cuizon Mangubat et al., plaintiffs vs. Mactan-Cebu International Airport Authority (MCIAA), defendant, the dispositive portion of which reads as follows:

"WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiffs, quieting title over lot no. 4538 embraced in TCT no. 29854; ordering defendant to restore possession of the said lot to the plaintiffs or to pay the latter the value thereof within thirty (30) days after this judgment becomes final, with interest at the legal rate computed from the finality of this judgment."

The Solicitor-General as counsel for the defendant received copy of the said decision on June 30, 1997. A timely notice of appeal from the said judgment was filed on July 14, 1997 without payment of docket fees as required by the 1997 Rules on Civil Procedure which became effective July 1, 1997. Payment for docket fees was made by the Solicitor-General six days later, or on July 20, 1997, upon realizing that the new rules require payment of docket fees, within the period for taking an appeal, to the clerk of the court which rendered the judgment. A motion to deny due course the notice of appeal for late payment of docket fees was filed by the plaintiffs, invoking the 1997 New Rules of Civil Procedure. On August 4, 1997 the regional trial court issued the questioned order dismissing the appeal for late payment of docket fees. The motion for reconsideration from the said order was denied on October 28, 1997. The Solicitor-General filed a petition for certiorari with the Court of Appeals to set aside the order of dismissal.

The Court of Appeals rendered the decision subject of the instant petition for review upholding the validity of the order of dismissal issued by the regional trial court. The said tribunal held that under the 1997 Rules of Civil Procedure late payment for docket fees is a ground for dismissal of the appeal and the Solicitor-General's alleged inadvertence to comply with the changes introduced by the new rules is not a valid justification for the pleaded relaxation of the rules. Hence, this petition for review.

The Solicitor-General pleads that the payment for docket fees six days after the filing of the notice of appeal be considered substantial compliance with the new rules on appeals embodied in the 1997 Rules of Civil Procedure. The non-payment of docket fees within the period to appeal was without design nor plan to disregard the new procedure but was due to inadvertence considering that the new rules had taken effect for only fourteen days at

the time the notice of appeal was filed. The petitioner argues that it is imperative that the merits of the case be reviewed on appeal in view of the strong evidence in support of its claims and the substantial interest of the government involved in it.

The private respondents filed comment to the petition stating that the trial court and the Court of Appeals properly dismissed the appeal for late payment of docket fees and that the justification of the Solicitor-General is not a valid reason for a relaxation of the rules.

The petition has merit.

It is not disputed that the Solicitor-General failed to comply with Section 4, Rule 41 of the 1997 Rules of Civil Procedure which states:

Sec. 4 Appellate court docket and other lawful fees.- Within the period for taking an appeal, the appellant shall pay the clerk of the court which rendered the judgment or final order appealed from, the full amount of the appellate court docket and other lawful fees. Proof of payment of the said fees shall be transmitted to the appellate court together with the original record or the record on appeal.

and that the docket fees were paid six days after the filing of the notice of appeal and beyond the fifteen day reglementary period for perfecting an appeal. Similarly undisputed is that the Solicitor-General paid the required docket fees without notice or warning from the trial court that payment of docket fees was due. The Solicitor-General alleges that the said payment was immediately made when it was suddenly realized that the 1997 Rules of Civil Procedure had, in the meantime, taken effect.

We find the delay excusable. In the case of *Solar Team Entertainment Inc., vs. Ricafort*[1] the court held that the failure to attach to the Answer a written explanation why alternative mode of service of pleading is availed of, thirty nine (39) days after the effectivity of the new rules, may be excused as the counsel may not have been fully aware of the new requirements. This Court further ordered that strictest compliance with the said mandatory requirement is to be enforced one month from the promulgation of the said decision on August 5, 1998. The intent of the Court is clear to afford litigants full opportunity to comply with the new rules and to temper enforcement of sanctions in view of the recency of the changes introduced by the new rules. This Court also considered the importance of the subject matter or issues involved in the case and the apparent merit of the pleading denied admission. In line with this ruling, the omission of the Solicitor-General to pay docket fees together with the filing of the notice of appeal fourteen (14) days after the effectivity of the new rules may be excused. The late payment of docket fees made by the Solicitor-General cannot be considered dilatory nor in derogation of the new rules to warrant dismissal of the appeal. It is not disputed that the Solicitor-General paid the required docket fees without delay as soon as he became aware that the new rules has in the meantime taken effect, even without prior notice nor warning from the trial court that the said fees were due. Late payment of docket fees may be admitted when the party showed willingness to abide by the Rules by immediately paying the required fees.[2] We also note that the Solicitor-General observed the procedure for perfecting an appeal under the old rule wherein only the notice of appeal is filed with the trial court and the docket fees were later paid to the appellate court after notice from the latter court that payment of docket fees are due. Moreover, the importance of the issues raised in this case e.g., who has valid title over the land occupied by the Mactan Cebu International Airport, and the substantial governmental interest involved, merits a review of the case on appeal.

WHEREFORE, the petition is granted. The decision of the court of Appeals is set aside. The order issued by the regional trial court dismissing the appeal filed by the Solicitor-General for late payment of docket fees is also set aside. The regional trial court is ordered to give due course to the appeal.

SO ORDERED.

Melo, (Chairman), Vitug, Panganiban, and Purisima, JJ., concur.

[1] 293 SCRA 661.

[2] Gensoli and Co., vs. NLRC, G.R. no. 113051, April 22, 1998.

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.