

DIOSDADO CHAVEZ AND LEONILA CELESTE, PETITIONERS, VS. BUENAVENTURA GANZON AND THE COURT OF APPEALS, RESPONDENTS.

G.R. No. 13831. May 16, 1960

Ponente: PADILLA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-13831/>

PADILLA, J.:

The petitioners Diosdado Chavez and Leonila Celeste brought an action in the Court of First Instance of Iloilo against the respondent Buenaventura Ganzon to recover damages (case No. 3204). After trial the Court rendered judgment ordering the respondent Buenaventura Ganzon to pay the petitioners P1,700 as actual, moral and exemplary damages. Having appealed to the Court of Appeals, respondent Ganzon was required, pursuant to section 12, Rule 48 of the Rules of Court, to file his brief within the reglementary period of 45 days which was to expire on 22 April 1957 (CA-G. R. No. 19107-R). Upon motion filed on 17 April 1957 by attorney Cirilo Ganzon, an extension of 30 days from 22 April to file appellant's brief was granted to respondent Ganzon by the Court of Appeals in its resolution of 7 May 1957, "with the warning that no further extension will be given." On 13 December 1957 the petitioners filed a motion to declare the appeal of respondent Ganzon abandoned and dismissed for failure to file his brief as provided for by 1 (e) of Rule 52 of the Rules of Court. On 20 December 1957 respondent Ganzon filed an opposition where he stated that the preparation and filing of appellant's brief had been entrusted to attorney Leon P. Gellada, a collaborating counsel in the trial court, who despite promise and assurance that he would prepare and file the brief failed to do so. A reply to the opposition was filed by the petitioners. As prayed for by the latter, the Court of Appeals dismissed the appeal by resolution adopted on 23 December 1957. On 6 January 1958 the respondent filed his printed brief and a pleading entitled "rejoinder," to which the petitioners replied on 9 January. On the last mentioned date, the respondent moved for the reconsideration of the resolution of 23 December 1957. On 11 January 1958 the petitioners filed an objection to the motion. On 16 January, the motion for reconsideration was denied. On 8 February 1958 respondent Ganzon filed an ex parte second motion for reconsideration of the resolution of 23 December 1957 which had dismissed the appeal and of 16 January 1958 which had denied the first motion for reconsideration. By a resolution adopted on 24 February 1958, the Court of Appeals granted the ex parte second motion for reconsideration, reinstating the appeal, allowing the appellant's brief and requiring the appellees to file their brief within the reglementary period from receipt of appellant's brief.

Having failed to secure the setting aside of the last resolution, the petitioners have come to this Court for a writ of certiorari under Rule 67 of the Rules of Court to annul it.

The petitioners contend that the respondent Court of Appeals acted contrary to law and/or with grave abuse of discretion in reinstating the appeal of respondent Buenaventura Ganzon, which had been previously dismissed for failure to file his brief on time, allowing his brief filed long after the dismissal of his appeal, and requiring the petitioners, the appellees therein, to file their brief. On the other hand, respondent Ganzon claims that section 1(e) of Rule 52 of the Rules of Court grants the Court of Appeals ample discretion to dismiss and reinstate an appeal.

Granting that the power or discretion to reinstate an appeal that had been dismissed is included in or implied from the power or discretion to dismiss an appeal,[1] still such power or discretion must be exercised upon a showing of good and sufficient cause, in like manner as the power or discretion vested in the appellate court to allow extensions of time for the filing of briefs.[2] There must be such a showing which would call for, prompt and justify its exercise. Otherwise, it cannot and must not be upheld. The point then to determine is whether the delay in filing respondent Ganzon's brief was due to a good and sufficient cause. On the second page of his ex parte second motion for reconsideration dated 8 February 1958 and in his answer to the petition for certiorari filed in this case, respondent Ganzon explains the cause of his failure to file his brief on time, thus—

* * * the making and filing of the brief for the defendant-appellant (respondent herein) was entrusted to another attorney who appeared as co-counsel with Mr. Cirilo Y. Ganzon in the trial of the above-entitled case in the court below; all the while Mr. Cirilo Y. Ganzon sincerely and honestly believed that the brief was prepared and filed on time. * * *

* * *

The reason why the preparation and the filing of the brief was entrusted to another attorney was, to be frank and truthful, because Mr. Cirilo Y. Ganzon was very busy several months preceding the November 12, 1957 elections. He was the campaign manager of then re-electionist Rep. Jose M. Aldeguer for the Fifth District of Iloilo Province comprising 15 towns. He was the chief legal counsel entrusted with the task of filing inclusion and exclusion cases in the Court of First Instance of Iloilo with the view to preserve and safeguard the sanctity of free elections. * * *

The explanation cannot be deemed a good and sufficient cause or a legal reason or justification for not filing his (respondent's) brief within the time fixed by or provided for in the Rules[3] because the political activities of respondent's counsel as campaign manager of a congressman seeking re-election did not deprive and could not have deprived him of the opportunities, means and ways of contacting the collaborating attorney to whom he had entrusted the preparation and filing of respondent Ganzon's brief, and of finding out or verifying whether it was being prepared and if already prepared whether it was filed in accordance with the Rules. The political activities of respondent Ganzon's attorney as campaign manager of a re-electionist congressman and the filing and handling of inclusion and exclusion cases in the general elections of 1957, that prompted him to delegate or entrust to another lawyer the preparation and filing of the then appellant's brief, do not constitute sufficient reason or cause which would excuse or relieve him from the adverse effects of his failure to file timely the appellant's brief, because when respondent Ganzon's counsel accepted the case, he bound himself to perform his obligations and duties toward the court and his client. He knew that there are certain fixed periods of time that had to be met and complied with. And even viewed or construed liberally the delay of respondent Ganzon in filing his brief could not be justified, because when he was granted the first extension of time for the filing of his brief, he was warned that "no further extension will be given." He did not heed the warning and allowed more than seven months to pass without even asking the Court of Appeals to set aside or modify the warning. Consequently, in reinstating the appeal which had been dismissed, the Court of Appeals gravely abused its discretion.

The writ prayed for is granted and the resolution of 24 February 1958 granting the ex parte second motion for reconsideration filed by respondent Ganzon is annulled and set aside, with costs against respondent Buenaventura Ganzon.

Paras, C. J., Bengzon, Montemayor, Bautista Angelo, Labrador, Concepcion, Barrera, and Gutierrez David, JJ., concur.

[1] Section 1 (e), Rule 52, of the Rules of Court.

[2] Section 16 (e), Rule 48, of the Rules of Court.

[3] Section 12, Rule 48, of the Rules of Court.

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.