JULIAN ELBIÑA, PETITIONER, VS. FELISA, CELESTINO, CRISTITUTA, SALUD AND EXALTACION, ALL SURNAMED CENIZA, RESPONDENTS.

G.R. NO. 154019. August 10, 2006

Ponente: CORONA, J.

Read online (full-text search, related cases, audio case brief): https://batas.org/library/g-r-no-154019/

CORONA, J.:

This petition for review on certiorari[1] originated from a complaint for "Quieting of Title, Declaration of Nullity of All Documents Affecting Lots 948 and 1469 and All Tax Declaration issued by Virtue Thereof" filed by respondents Felisa, Celestino, Cristituta, Salud and Exaltacion Ceniza against petitioner Julian Elbiña, Margarita Ceniza Pepito, Nick Seno and Presentacion Jayme.[2] It was docketed as Civil Case No. MAN 2406 in Branch 55, Regional Trial Court of Mandaue City, Cebu.

After all the pleadings were filed, trial ensued. On February 26, 1997, the trial court decided in respondents' favor.[3] The dispositive portion of the decision read:

> WHEREFORE, judgment is hereby rendered: (1) declaring [respondents] as the rightful co-owners of Lots 948 and 1469 described under Original Certificate of Title No. 767 of the Register of Deeds of Mandaue City; (2) declaring as void from the beginning the Extra-Judicial Settlement of Estate of Pedro Ceniza and Deed of Conveyance, dated July 17, 1973 xxx and the Extra-Judicial Settlement of Estate of Pedro Ceniza and Confirmation of Ownership, dated May 12, 1981 xxx; (3) declaring void all subsequent documents of transfer in favor of the defendants [including petitioner] and their successor-in-interest affecting Lots 948 and 1469; (4) directing the Office of the City Assessor of Mandaue City to cancel all tax declarations issued to the defendants [including petitioner] and to reinstate the tax declarations of Lots 948 and 1469 in the name of Pedro Ceniza in accordance with Original Certificate of Title No. 767; and (5) ordering defendants [including petitioner] jointly and severally to pay attorney's fees of P20,000.00 and litigation expenses of P10,000.00.

Petitioner's counsel of record, Atty. Ervin Estandarte, filed a motion for reconsideration on May 2, 1997.

In the meantime, a certain Atty. Mario Cugtas filed a "Formal Notice of Appearance as Collaborating Counsel for Defendants with Motion for Additional Period to File Written Arguments in Support of the Motion for Reconsideration."[4] On June 6, 1997, the trial court granted Atty. Cugtas' motion.[5] When he failed to "file (his) arguments," the trial court granted an additional period of ten days in an order dated June 19, 1997.[6] He finally submitted a memorandum on June 30, 1997.

The trial court thereafter denied the motion for reconsideration on July 15, 1997.[7] A copy of the order was received by Atty. Estandarte on July 23, 1997. Atty. Cugtas received his copy on August 7, 1997. On the same day, Atty. Cugtas filed a notice of appeal[8] but the appeal was dismissed by the trial court for having been filed late.[9]

On October 10, 1997, petitioner filed a "Petition for Relief from Denial of Appeal."[10] He claimed that the order denying the motion for reconsideration was received by the Bernaldez and Estandarte Law Office on July 23, 1997. Atty. Estandarte, however, did not act on the order anymore since his legal services had already been

terminated. The new counsel, Atty. Cugtas, received a copy of the order only on August 7, 1997 and he filed a notice of appeal on the same day.

On December 22, 1997, the trial court dismissed the petition for relief.[11] Petitioner filed a motion for reconsideration[12] but the same was denied on February 2, 1998.[13]

Petitioner then sought to set aside the trial court's orders via a special civil action for certiorari[14] in the Court of Appeals which, however, dismissed it[15] and also denied the subsequent motion for reconsideration.[16]

Hence, this petition for review under Rule 45 of the Rules of Court.[17]

Petitioner questions the trial court's reckoning of the timeliness of the appeal from the receipt on July 23, 1997 by Atty. Estandarte of the copy of the denial of the motion for reconsideration. The fact that Atty. Estandarte no longer appeared in the subsequent hearings of the case was allegedly an indication that his legal services had already been terminated. Atty. Estandarte consequently did not act on the trial court's order since a new counsel, Atty. Cugtas, had by then already entered his appearance. And considering that Atty. Cugtas received his copy of the order only on August 7, 1997, the notice of appeal filed on the same day was allegedly within the 15-day reglementary period to appeal.

The records do not show that a substitution of counsel ever took place. Petitioner failed to present any evidence that he retained Atty. Cugtas as his new and only counsel before the order of denial was sent to counsel. Atty. Cugtas' pleading denominated as "Formal Notice of Appearance as Collaborating Counsel for Defendants with Motion for Additional Period to File Written Arguments in Support of the Motion for Reconsideration" showed that he entered his appearance merely as collaborating counsel.

In accordance with our ruling in Landbank v. Pamintuan Development Corporation,[18] there is no question that a party may have two or more lawyers working in collaboration in a given litigation. However, a substitution should not be presumed from the mere filing of a notice of appearance of a new lawyer. The fact that a second attorney enters his appearance for the same party does not necessarily raise the presumption that the authority of the first attorney has been withdrawn.[19]

In this case, even if, from some point onwards, only Atty. Cugtas appeared in the hearings of petitioner's case, it did not necessarily mean that Atty. Estandarte had withdrawn from representing petitioner.

Moreover, Atty. Estandarte's legal services had not yet been terminated when he received the notice of denial of the motion for reconsideration. No formal notice of withdrawal as counsel had yet been filed with the court.

We have held time and again that there is an absolute need to observe legal formalities before a counsel of record may be considered relieved of his responsibilities. The withdrawal (or dismissal) of counsel must be made in a formal petition filed in the case.[20] The representation of the first counsel of record is presumed to continue until a formal notice to the contrary is filed with the court.[21]

One more point. Atty. Estandarte filed a formal withdrawal of appearance on September 4, 1997, long after he received a copy of the denial of the motion for reconsideration.[22] Why did he bother to file a formal withdrawal as counsel then if he believed he had already ceased representing petitioner? Clearly, Atty. Estandarte was still the principal counsel of record of petitioner at the time the motion for reconsideration was denied. The notice given to him was consequently valid and the timeliness of the appeal must be reckoned from that date.

However, all is not lost for petitioner. In Neypes, et al. v. Court of Appeals,[23] we standardized the appeal period provided in the Rules of Court. In Neypes, we granted a "fresh period" of 15 days within which to file the notice of appeal, counted from receipt of the order dismissing a motion for a new trial or motion for reconsideration or

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

any final order or resolution.

The filing by Atty. Cugtas of the notice of appeal on August 7, 1997 was exactly 15 days from the receipt by Atty. Estandarte of the denial of the motion for reconsideration on July 23, 1997. The appeal was therefore filed on time.

WHEREFORE, the petition is hereby GRANTED. The assailed decision and resolution of the Court of Appeals in CA-G.R. SP No. 47899 are REVERSED and SET ASIDE. Accordingly, let the records of this case be remanded to the Court of Appeals for further proceedings.
SO ORDERED.

Puno, (Chairperson), Sandoval-Gutierrez, Azcuna and Garcia, JJ., concur.

---

[*] The Court of Appeals was also impleaded as a respondent but we deleted it pursuant to Section 4, Rule 45 of the Rules of Court.

[1] Under Rule 45 of the Rules of Court.

[2] Rollo, pp. 32-38.

[3] Id., pp. 47-53; Penned by Judge Ulric R. Cañete of Branch 55, Regional Trial Court, Mandaue City.

[4] Dated June 6, 1997; CA Records, p. 83.

[5] Id., p. 84.

[6] Id., p. 85.

[7] Rollo, p. 54.

[8] Id., p. 55.

[9] September 29, 1997.

[10] Rollo, pp. 57-67.

[11] Id., p. 68.

[12] Dated January 14, 1998.

[13] Rollo., p. 69.

[14] Under Rule 65 of the Rules of Court; the petition was docketed as CA-G.R. SP No. 47899; Id., pp. 70-87.

[15] Penned by Associate Justice Candido V. Rivera (retired) and concurred in by Associate Justices Conchita Carpio Morales (now Associate Justice of the Supreme Court) and Josefina Guevara-Salonga of the Fourteenth Division of the Court of Appeals; Promulgated on November 29, 2000; id., pp. 7-14.

[16] Promulgated on June 7, 2002; id., p. 15.

[17] See note 1; id., pp. 21-31.

[18] G.R. No. 167886, 25 October 2005, 474 SCRA 344; citing Sublay v. National Labor Relations Commission, 381 Phil. 198 (2000).

[19] Citing Ong Ching v. Ramolete, 151-A Phil. 509 (1973).

Study hands-free: podcast-style lessons with read-along highlighting - batas.org

[20] Tumbagahan v. Court of Appeals, No. L-32684, 20 September 1988, 165 SCRA 485.

[21] See note 20.

[22] CA Decision, rollo, p. 92.

[23] G.R. No. 141524, 14 September 2005, 469 SCRA 633.

Turn this case into an audio lecture - facts, issues, ruling and doctrine - at batas.org

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.