

DOMINGA RUIZ, APOLONIA RUIZ, FLORENCIO RUIZ, CORNELIA RUIZ, OLIMPIO RUIZ, AND HEIRS OF TOMASA RUIZ, PETITIONERS, VS. CIRILA DELOS SANTOS RESPONDENT.

G.R. No. 166386. January 27, 2009

Ponente: AUSTRIA-MARTINEZ, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-166386/>

AUSTRIA-MARTINEZ, J.:

Before us is a petition for review on certiorari and mandamus seeking that the Resolutions dated September 21, 2004[1] and December 21, 2004[2] of the Court of Appeals (CA) in CA-G.R. SP No. 85872 be reversed and set aside; and that the CA be directed to give due course to the petition for certiorari, prohibition and mandamus filed before it by herein petitioners.

A brief factual background is necessary for a proper perspective in the resolution of herein petition.

Dominga, Apolonia, Florencio, Cornelia, Tomasa and Olimpio, all surnamed Ruiz (petitioners), were the original owners of seven parcels of land with a total area of 194,284 square meters located in Barangay Kaytinga, Alfonso, Cavite, covered by OCT No. P-4017 in the name of Tomasa, covering 46,235 sq. meters; OCT No. P-4018 in the name of Cornelia, 49,803 sq. meters; OCT No. P-4288 in the name of Dominga, 19,649 sq. meters; OCT No. P-4289 in the name of Apolonia, 19,649 sq. meters; OCT No. P-4290 in the name of Olimpio, 19,650 sq. meters; OCT No. P-4291 in the name of Florencio, 19,650 sq. meters; and OCT No. P-4292 in the name of Cornelia, 19,648 sq. meters (collectively referred to as "subject property").

Cirila delos Santos (respondent) is a duly licensed real estate broker.

Sometime in 1995, Olimpio gave respondent the plan of the subject property and verbally authorized her to sell the same. Thereafter, respondent referred in writing the subject property to Odessa Antiporda (Antiporda), a realtor and a fellow estate broker, who had earlier informed respondent that she had a prospective buyer interested to buy a land with an area of about 15 to 20 hectares to be used as a retirement village. Antiporda in turn referred the subject property to one Alfred Tantiansu (Tantiansu). Olimpio then gave respondent a written authority to sell the same.[3]

In May 1996, respondent introduced Olimpio to Tantiansu and they all went together to the location of the properties. Tantiansu showed interest in the properties and asked for the lowering of price, which Olimpio pegged at P315.00 per square meter. Respondent asked Olimpio for the renewal of her authority, to sell to which the former obliged. In the authority to sell, it was specified that she would still be paid her commission even after the said authority expired, provided she registered in writing her prospective buyer with whom she negotiated during the period of authority. Accordingly, respondent notified petitioners in writing that Tantiansu was her buyer.[4]

A meeting was subsequently held among Olimpio, respondent and Tantiansu in Tantiansu's office where the prospective buyer showed interest in buying the properties. A few weeks later, a meeting was held between Olimpio and Tantiansu only, without respondent. Olimpio asked respondent to lower her commission from 5% to

2.5%; otherwise, the sale would not push through. But respondent, through a letter sent to Olimpio, answered that she was amenable to a commission of 4%.^[5]

Respondent later learned that the properties were sold to different corporations at P60.00 per square meter, as indicated in the deeds of sale. Upon her verification of the articles of incorporation of the corporation-buyers with the Securities and Exchange Commission, she found out that the corporations were owned by Tantiansu. Respondent then demanded the payment of her broker's commission, but was unheeded.

Respondent filed with the Regional Trial Court (RTC), Branch 275, Las Piñas City, a complaint^[6] for collection of sum of money and damages against all petitioners, alleging that it was through her effort as a real estate broker that she was able to bring about the consummation of the sale of the subject property, to petitioners' immense gain and benefits; that despite the sale and her repeated demands, petitioners refused to pay her broker's fee.

Petitioners "Domingo Ruiz, et al." filed their Answer with counterclaim and alleged as affirmative defense that at the time of the consummation of the sale of the subject properties, there was no longer any existing broker's agreement between them; that respondent had no more authority from them to sell the properties or, assuming there was such authority, the same had already lapsed or expired; that it was petitioners' understanding at the time of the sale of the subject properties that Tantiansu, the buyer, would be responsible for the payment of the broker's commission, whoever the broker may be; that petitioners knew that respondent had initially claimed her broker's commission from Tantiansu; but after Tantiansu's death, and failing to collect any broker's commission from said buyer, respondent commenced the present action against them.

Issues having been joined, a full-blown trial on the merits ensued.

On September 22, 2003, the RTC^[7] rendered its judgment, the dispositive portion of which reads:

WHEREFORE, judgment is rendered in favor of plaintiff [respondent] and against the defendants [petitioners], ordering the latter to pay the plaintiff jointly and severally the sum of P2,447,524.80 plus legal interest thereon from the filing of the complaint and moral damages of P500,000.00 as well as exemplary damages of P200,000.00 and attorney's fees of P100,000.00 and P2,000.00 per court appearance and to pay the cost.^[8]

Petitioners filed their notice of appeal.^[9] On November 6, 2003, respondent filed her Comment and/or opposition thereto, alleging that the appeal was not perfected for failure of petitioners to file the docket/appeal fee within the reglementary period to appeal.

In an Order^[10] dated January 16, 2004, the RTC denied petitioners' appeal and considered the appeal barred for failure of petitioners to pay the appeal fee within the reglementary period as provided under Section 4, Rule 41 of the Rules of Civil Procedure. It ruled that the decision had already become final and executory, and there was nothing more to be appealed to the CA.

With the denial of their appeal, petitioners filed a petition for relief^[11] alleging that they were prevented from awaiting themselves of an appeal due to mistake and excusable negligence of their counsel on record, and that they had a good and substantial defense. Attached to the petition was the Affidavit of Merit of Atty. Mark Edsel Ang (Atty. Ang), petitioners' former counsel, wherein he stated that when he received the decision on September 30, 2003, he immediately sent copies thereof to petitioners by registered mail, as four of the six petitioners live abroad while the other two live in Cavite; that he communicated with the RTC Clerk of Court the fact that a notice of appeal was already filed and the fees would be paid as soon as he got the confirmation of petitioners' desire to appeal, to which the clerk of court gave her assurance on the acceptance of the late payment of docket fees; that he received a long distance call from petitioner Cornelia on October 15, 2003 confirming petitioners' desire to appeal the decision; thus, he paid the appellate fees on October 24, 2003. Atty. Ang admitted that it was

through his negligence that the appeal was belatedly filed.

In its Decision[12] dated June 18, 2004, the RTC denied the petition for relief for lack of merit. The RTC found no merit in petitioners' contention that the error of counsel to pay the appellate fees in due time was a mistake constituting excusable negligence and ruled that the mistake of counsel binds his client. The RTC held that petitioners' claim of a good and valid defense was belied by the court's findings and conclusions contained in its Decision dated September 22, 2003.

In an Order[13] dated June 24, 2004, the RTC granted the motion for execution filed by respondent on the ground that the decision dated September 22, 2003 had already become final and executory.

On July 5, 2004, notices of garnishment[14] were issued to the different banks by sheriff Josefino Ortiz. Notice[15] of sale on execution of the subject property was scheduled on September 3, 2004.

Petitioners filed a petition for certiorari, prohibition, and mandamus with prayer for the issuance of a temporary restraining order/writ of preliminary injunction with the CA, verified and certified by Dominga, seeking to set aside the following: (1) Order dated January 16, 2004, which denied petitioners' notice of appeal; (2) Decision dated June 18, 2004 denying petitioners' petition for relief; (3) Order dated June 24, 2004 declaring the Decision as final and executory and granting the motion for execution filed by respondent; (4) notice of garnishment issued on July 5, 2004; and notice of sale.

On September 21, 2004, the CA dismissed the petition, the dispositive portion of which reads:

WHEREFORE, for being procedurally flawed, at the very least, this petition is hereby DENIED DUE COURSE, and consequently DISMISSED. And since the temporary restraining order and/or writ of preliminary injunction is merely an adjunct to the main case, the same must be pro tanto denied.[16]

The reasons given by the CA dismissing the petition outright are as follows:

(1)

No motion for reconsideration was filed against the challenged Order issued by the respondent judge on January 16, 2004. Well settled is the rule that a filing of a motion for reconsideration is a prerequisite to the institution of a special civil action for certiorari.

(2)

The names of the heirs of the petitioner Tomasa Ruiz are not indicated, in violation of the first par. Section 3, Rule 46 of the 1997 Rules, which requires that the "petition shall contain the full names and actual addresses of all petitioners and respondents, a concise statement of the matters involved, the factual background of the case, and the grounds relied upon for the relief prayed for."

(3)

There is no special power of attorney executed by the said heirs authorizing Dominga to sign the verification and certification in their own behalf.[17]

Petitioners' motion for reconsideration was denied in the assailed Resolution dated December 21, 2004, as the CA found that the arguments put forward in the motion were a virtual rehash of those alleged in support of the petition.

Hence, herein petition raising the following issues:

- WHETHER A MOTION FOR RECONSIDERATION IS REQUIRED BEFORE RESORTING TO THE PETITION FOR CERTIORARI FILED BY PETITIONERS BEFORE THE CA;

- WHETHER THE NAMES OF THE HEIRS OF THE PETITIONER TOMASA RUIZ ARE INDICATED IN THE PETITION;
- WHETHER THERE IS NO SPECIAL POWER OF ATTORNEY EXECUTED BY SAID HEIRS AUTHORIZING PETITIONER TO SIGN THE VERIFICATION AND CERTIFICATION ON THEIR OWN BEHALF.
- WHETHER THE CA ACTED WITH HASTE ON ITS BASESLESS CONCLUSION THAT PETITIONERS' MOTION FOR RECONSIDERATION IS A VIRTUAL REHASH OF THOSE ALLEGED IN SUPPORT OF ITS PETITION.[18]

The parties filed their respective memoranda.

Anent the first issue, petitioners assert that the CA erred in finding that the filing of a motion for reconsideration is a prerequisite for the institution of a special civil action for certiorari.

Under the peculiar circumstances of the present case, we agree with petitioners. There is no question that the filing of a motion for reconsideration before resort to certiorari will lie is intended to afford the court an opportunity to correct any actual or fancied error attributed to it by way of re-examination of the legal and factual aspects of the case.[19]

However, the filing of a motion for reconsideration before availing of the remedy of certiorari is not always a sine qua non[20] requirement, as there are recognized exceptions: (a) where the order is a patent nullity, as where the court a quo has no jurisdiction; (b) where the questions raised in the certiorari proceedings have been duly, or are the same as those, raised and passed upon by the lower court; (c) where there is an urgent necessity for the resolution of the question and any further delay would prejudice the interests of the government or of the petitioner, or the subject matter of the action is perishable; (d) where, under the circumstances, a motion for reconsideration would be useless; (e) where petitioner was deprived of due process and there is extreme urgency for relief; (f) where, in a criminal case, relief from an order of arrest is urgent and the granting of such relief by the trial court is improbable; (g) where the proceedings in the lower court are a nullity for lack of due process; (h) where the proceedings were ex parte, or in which the petitioner had no opportunity to object; and (i) where the issue raised is one purely of law, or public interest is involved.[21] We find this case falling under exceptions b, c and d.

Petitioners' notice of appeal was earlier denied by the RTC due to the late payment of docket fees, and it ruled that its decision dated September 22, 2003 had already become final and executory and there was nothing more to be appealed to the CA. Clearly then, a motion for reconsideration would be useless in the light of such declaration by the RTC.

Petitioners' subsequent petition for relief from the denial of appeal was denied by the RTC in its Decision dated June 18, 2004. The court reiterated its disquisition found in its main decision dated September 22, 2003. In fact, just after the petition for relief was denied on June 18, 2004, the RTC issued an Order dated June 24, 2004 granting the motion for execution filed by respondent. Thereafter, on July 5, 2004, notices of garnishment of petitioners' goods, stocks, interest on stocks, shares and any other personal properties in their control and possession were already served by the sheriff on the different banks. Thus, petitioners sufficiently showed that there was an urgent necessity for the filing of the petition with the CA to rule on the issue of the denial of appeal and the petition for relief.

Anent the second issue, the CA erred in finding that the names of the heirs of petitioner Tomasa Ruiz were not indicated in the petition. In the petition filed before the CA, it was alleged that the petitioners are as follows:

Dominga Ruiz, resident of Kaytinga, Alfonso Cavite;
Apolonia Ruiz, resident of 105 Eagle Head Drive, Fort Washington, Maryland, USA;
Cornelia Ruiz, resident of 12903 Turnberry Circle, Fort Washington, Maryland, USA;
Olimpio Ruiz, resident of 4510 N. Troy, Chicago, Illinois, USA;
Florencio Ruiz, resident of Detecon Al Saudia Co. Ltd., PO Box 31443, Jeddah, 21497;
Heirs of Tomasa Ruiz, all the above residents of the above-mentioned addresses.[22]

In their motion for reconsideration of the CA Resolution dated September 21, 2004, petitioners alleged that there was substantial compliance with the requirement that the full names and actual residents of all petitioners must be stated, since all the petitioners are the only children of the late Tomasa Ruiz, a fact that they had sufficiently alleged in their petition. We find such explanation plausible, considering that the phrase "heirs of Tomasa Ruiz" was followed by the words "all the above," which means that the heirs of Tomasa are the persons whose names are immediately preceding.

As to the third issue, we also find that the CA erred in finding that there were no special powers of attorney (SPAs) executed by the heirs of Tomasa authorizing petitioner Dominga to sign the verification and certification on their behalf. However, an examination of the CA rollo shows that when the petition was filed with the CA, attached were separate SPAs[23] of petitioners Apolonia, Cornelia, Olimpio, Florencio, the heirs of Tomasa, executed in favor of their co-petitioner Dominga, giving her the authority to sign the required verification and certification of non-forum shopping.

Anent the fourth issue, we rule that the CA hastily concluded that the allegations in petitioners' motion for reconsideration of the Resolution dated September 21, 2000, were a mere rehash of those in support of their petition for certiorari. Notably, the motion had sufficiently stated the circumstances which would excuse petitioners for their non-filing of a motion for reconsideration of the RTC decision dated June 24, 2004 before resorting to a petition for certiorari in the CA, to wit: the RTC's declaration that its decision had already become final and executory and that there was nothing more to be appealed to the CA; and the granting of respondent's motion for execution as well as the sheriff's implementation of such writ by the issuance of notices of garnishment. Petitioners also pointed out to the CA that it had overlooked the fact that the names of the heirs of Tomasa Ruiz were alleged in the petition and clarified that they were the only heirs of petitioner Tomasa and that they had executed separate SPAs in favor of petitioner Dominga.

Thus, the CA committed a reversible error in outrightly dismissing the petition and not giving due course to it as well as in denying petitioners' motion for reconsideration.

Petitioners further claim that the RTC should have given due course to their notice of appeal of the RTC Decision dated September 22, 2003 to the CA since the late payment of appellate docket fees was due to the mistake and excusable negligence of their counsel and they had a good and substantial defense.

Instead of remanding the case to the CA which would only unduly prolong the disposition of the case between the parties, we shall resolve[24] the substantive issue raised in the petition for certiorari filed with the CA, to wit: Whether the RTC committed grave abuse of discretion in denying petitioners' petition for relief from denial of appeal.

To begin with, petitioners, through counsel, received a copy of the RTC decision dated September 22, 2003 on September 30 2003. Thus, petitioners had until October 15, 2003 within which to perfect their appeal by filing the notice of appeal[25] and paying the appellate docket and other legal fees.[26] On October 14, 2003, petitioners filed their notice of appeal through registered mail without paying the appeal fees.

It is a well-settled rule that the mere filing of the notice of appeal is not enough, for it must be accompanied by the

payment of the correct appellate docket fees.[27] Payment in full of docket fees within the prescribed period is mandatory.[28] It is an essential requirement without which the decision appealed from would become final and executory as if no appeal has been filed. Failure to perfect an appeal within the prescribed period is not a mere technicality but jurisdictional, and failure to perfect an appeal renders the judgment final and executory.[29]

Hence, there is no question that the RTC correctly dismissed petitioners' appeal pursuant to Section 13, Rule 41 of the Rules of Court which reads:

SEC. 13. Dismissal of appeal. — Prior to the transmittal of the original record or the record on appeal to the appellate court, the trial court may, *motu proprio* or on motion dismiss the appeal for having been taken out of time, or for non-payment of the docket and other lawful fees within the reglementary period.

However, petitioners filed a petition for relief from the RTC Order that did not giving due course to their notice of appeal on the grounds of mistake and excusable negligence committed by their counsel. They contend that their counsel mistakenly erred when he relied in good faith on the affirmation made by the trial court's clerk of court that the appeal fees would be accepted even after the period for the filing of the notice of appeal; that counsel also mistakenly relied on jurisprudence that technical rules of procedure would be relaxed provided that the same were substantially complied with; that counsel's negligence should not be binding on them; that they have good and substantial defenses which would result in the dismissal of the complaint or a reduction of the monetary awards set forth in the decision.

Section 2, Rule 38 of the Rules of Court provides:

Section 2. Petition for relief from denial of appeal. — When a judgment or final order is rendered by any court in a case, and a party thereto, by fraud, accident, mistake, or excusable negligence, has been prevented from taking an appeal, he may file a petition in such court and in the same case praying that the appeal be given due course.

Negligence to be excusable must be one which ordinary diligence and prudence could not have guarded against.[30] Petitioners' counsel filed a notice of appeal within the reglementary period for filing the same without, however, paying the appellate docket fees. Counsel very well knew that under the Rules of Court, the full amount of appellate docket and other lawful fees must be paid within the same period that the notice of appeal was filed, as he even allegedly communicated to the clerk of court his request for additional time in order to consolidate the confirmation of petitioners' desire to appeal.

The failure of counsel to pay the appellate docket fees on time constitutes negligence. Despite receiving an overseas call on October 15, 2003, i.e., the last day to file the appeal, from petitioner Cornelia, who then lived in Japan and expressed in behalf of the other petitioners their desire to appeal the RTC decision, he paid the fees only on October 24, 2003.

It bears stressing that the Rules of Court explicitly provides for the procedure for the perfection of appeal. The counsel of petitioners should not have relied on the alleged assurance by the clerk of court of the acceptance of the late payment of docket fees. As an officer of the court, he should know that the affirmation of the clerk of court could not prevail over the specific requirement of the rules. The rules of procedure are meant to be followed and not to be subjected to the whims and convenience of the parties and their counsels or by mere opinions of the clerk of court.

Atty. Ang should not have presumed that the rules of procedure would be relaxed in favor of his clients. His reliance on jurisprudence that the application of the technical rules of procedure would be relaxed if the same was subsequently complied with is not justified. The liberal application of rules of procedure for perfecting appeals is

still the exception, and not the rule; and it is only allowed in exceptional circumstances to better serve the interest of justice.[31] Atty. Ang's negligence in not paying the docket fees on time cannot be considered as excusable. The circumstances surrounding this case do not warrant the relaxation of the rules.

Petitioners insist that they are not bound by the mistake of their counsel, citing *De Guzman v. Sandiganbayan*[32] and *Samala v. Court of Appeals*.[33]

In *De Guzman*, petitioner was convicted by the Sandiganbayan of anti-graft and corrupt practices act for his failure to account for the P200,000.00 he received for certain training programs of the Department of Agriculture based on the testimony of the lone prosecution witness that no such training program was held at the designated places. Petitioner sought to be relieved from what he considered as the serious and costly mistake of his former lawyers in demurring to the prosecution evidence after leave was denied, the effect of which deprived him of presenting the pieces of documentary evidence showing due disbursement of the P200,000 received for the training program which was actually conducted. The original documents were all along kept in the records section of the Bureau of Plant Industry; and these original copies were readily available, which if presented would have completely belied the accusation against him. We ruled that since no less than petitioner's liberty was at stake, the higher interests of justice and equity demand that petitioner be not penalized for the costly mistake of his previous counsel.

In contrast, the present case does not involve the life or liberty of petitioners, and they were adequately heard with all the issues fully ventilated and evidence presented before the decision was rendered.

In *Samala*, the last day for filing the notice of appeal fell on a Friday, October 13, 1995. The person to whom the filing of the notice was entrusted suffered stomach pains and was able to file it only on the next business day which was October 16, a Monday. We held that the delay was only for one day, as Saturday and Sunday were excluded and, considering the facts of the case, found the delay to be excusable.

In the case of herein petitioners, the payment of the docket fees was done nine days after the lapse of the period to appeal. In fact, in the affidavit of merit of petitioners' counsel attached to the petition for relief, he stated that on October 15, 2003, which was the last day to appeal, he received a long distance call from petitioner Cornelia who confirmed their desire to appeal the decision. However counsel, instead of immediately paying the appeal fee, waited for nine days before doing so.

Petitioners also allege that subsequent and substantial compliance with the rule may call for the relaxation of the rules of procedure, citing our ruling in *Jaro v. Court of Appeals*.[34]

We are not persuaded.

In *Jaro*, the CA dismissed the petition filed before it for being defective, as it was not in the form of a petition for review and the annexes thereto attached were certified as true xerox copies by counsel, not by the proper public official who had custody of the records. Petitioner subsequently filed an amended petition in the proper form accompanied by annexes, all of which were certified true copies by the Department of Agriculture Regional Adjudication Board. This Court ruled that there was more than substantial compliance, and the hard stance taken by the CA was unjustified under the circumstances. Notably, petitioner therein committed a lapse in the formal requirement which was curable by amendment. In the present case, however, petitioners failed to pay the appellate docket fees on time, which is jurisdictional and which divests the trial court of jurisdiction to act on the appeal. The payment of the appellate docket and other lawful fees is not a mere technicality of law or procedure.[35] It is an essential requirement, without which the decision or final order appealed from would become final and executory, as if no appeal was filed at all.[36]

The failure of petitioners' counsel to perfect the appeal binds petitioners. It is settled that clients are bound by the mistakes, negligence and omission of their counsel.[37] While, exceptionally, the client may be excused from the failure of counsel, the factual circumstances in the present case do not give us sufficient reason to suspend the rules of the most mandatory character. Petitioners themselves may not be said to be entirely faultless.

Atty. Ang, petitioners' counsel, claims that as soon as he received the decision, he sent copies to petitioners. Records show that at that time, while some of the petitioners were already abroad, Dominga and Tomasa were still living in Cavite. Cornelia who lives abroad was able to receive a copy of the decision and was able to make an overseas call to Atty. Ang to express her desire to appeal the decision. However, neither Dominga nor Tomasa who only live in Cavite, took steps to call Atty. Ang at the earliest possible time to protect their interest. No prudent party would leave the fate of his case completely to his lawyer.[38] It is the duty of the client to be in touch with his counsel so as to be constantly posted about the case.[39] Thus, we find that there was participatory negligence on the part of petitioners, which would not relieve them of the consequence of the negligence of their counsel.

The Court may deign to veer away from the general rule only if, in its assessment, the appeal on its face appears absolutely meritorious.[40] Indeed, the Court has, in a number of instances, relaxed procedural rules in order to serve and achieve substantial justice.[41] However, the instant case does not warrant the desired relaxation.

Respondent has sufficiently shown that she was authorized in writing by petitioners to sell the subject property; that respondent was instrumental in bringing about the meeting of petitioner Olimpio and Tantiansu and the transaction concerning the sale of subject property; and that it was proven by evidence that the buyer of the subject property was Tantiansu. Thus, respondent is entitled to the broker's commission as agreed upon between her and the petitioners. Petitioners' claim that Tantiansu had explicitly bound himself to pay the broker's commission after the consummation of the sale would not relieve petitioners of their liability to respondent since, as correctly held by RTC, whatever Tantiansu and petitioners agreed relative to the payment of broker's commission is binding only upon themselves and not binding on respondent who does not appear to have consented thereto.

Thus, we find no grave abuse of discretion committed by the RTC in denying petitioners' petition for relief, since they were not prevented from filing their notice of appeal and payment of docket fees by mistake or excusable negligence that would have deprived them of their day in court. Such relief under Rule 38, Section 2 of the Rules of Court will not be granted to a party who seeks to be relieved from the effects of the judgment when the loss of the remedy of law was due to his own negligence, or a mistaken mode of procedure for that matter; otherwise, the petition for relief will be tantamount to reviving the right of appeal which has already been lost, because of either inexcusable negligence or counsel's mistake in procedure.[42]

It bears stressing that appeal is not a right, but a mere statutory privilege.[43] Corollary to this principle is that the appeal must be exercised strictly in accordance with the provisions set by law.[44]

WHEREFORE, the petition for review is DENIED.

Cost against petitioners.

SO ORDERED.

Tinga,[*] Chico-Nazario, Nachura, and Leonardo-De Castro,[**] JJ., concur.

* In lieu of Justice Consuelo Ynares-Santiago, per Special Order No. 555 dated January 15, 2009.

** In lieu of Justice Diosdado M. Peralta, per Special Order No. 560 dated January 16, 2009.

*** The Court of Appeals and the Presiding Judge are deleted from the title pursuant to Section 4, Rule 45 of the Rules of Court.

[1] Penned by Justice Renato C. Dacudao and concurred in by Justices Lucas P. Bersamin and Celia C. Librea-Leagogo; rollo, pp. 28-29.

[2] Id. at 31.

[3] RTC Decision, p.10.

[4] RTC Decision.

[5] Id. at 11.

[6] Docketed as Civil Case No. LP 98-0084.

[7] Id. at 105-119; per Judge Bonifacio Sanz Maceda .

[8] Id. at 119.

[9] Id. at 120-122.

[10] Id. at 51-52.

[11] Id. at 124-139.

[12] Id. at 53- 58.

[13] Id. at 59.

[14] Id. at 50-86.

[15] CA rollo, pp 139-142.

[16] Rollo, p. 29.

[17] Id. at 28-29.

[18] Id. at 6-7.

[19] Villena v. Rupisan, G.R. No. 167620, April 3, 2007, 520 SCRA 346, 358-359, citing *Sevillana v. I.T. (International) Corporation*, G.R. No. 99047, 16 April 2001, 356 SCRA 451, 462.

[20] Id. citing *Chas Realty and Development Corporation v. Talavera*, 445 Phil. 43, 53 (2003).

[21] *Sevillana v. I.T. [International] Corp.*, supra note 19, at 462.

[22] CA rollo, p. 2.

[23] Id. at 130-138; Annexes "L to L-3".

[24] *Perez v. Hermano*, G.R. No. 147417, July 8, 2005, 463 SCRA 90, 98.

[25] RULES OF COURT, Rule 41, Section 3.

SEC. 3. Period of ordinary appeal, appeal in habeas corpus cases. — The appeal shall be taken within fifteen (15) days from notice of the judgment or final order appealed from. Where a record of appeal is required, the appellant shall file a notice of appeal and a record on appeal within thirty (30) days from notice of the judgment or final

order. x x x

[26] Section 4, Rule 41.

SEC. 4. Appellate court docket and other lawful fees. — Within the period for taking an appeal, the appellant shall pay to 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 said fees shall be transmitted to the appellate court together with the original record or the record on appeal.

[27] M.A. Santander Construction Inc. v. Villanueva, G.R. No. 136477, November 10, 2004, 441 SCRA 525, 528, citing Rodillas v. Commission on Elections, G.R. No. 119055, July 10, 1995, 245 SCRA 702, 705, citing Galang v. Court of Appeals, G.R. No. 76221, July 29, 1991, 199 SCRA 683; Guevara v. Court of Appeals, G.R. No. 43714, January 15, 1988, 157 SCRA 32.

[28] Id. citing Pedroso v. Spouses Hill, 327 Phil. 153 (1996).

[29] Id. citing Almeda v. Court of Appeals, 354 Phil. 600, 607 (1998), citing Phil. Airlines, Inc. v. National Labor Relations Commission, G.R. No. 120506, October 28, 1996, 263 SCRA 638 .

[30] Regalado v. Regalado, G.R. No. 134154, February 28, 2006, 483 SCRA 473, 484, citing Insular Life Savings and Trust Company v. Runes, Jr., G.R. No. 152530, August 12, 2004, 436 SCRA 317, citing Gold Line Transit, Inc. v. Ramos, G.R. No. 144813, August 15, 2001, 363 SCRA 262.

[31] Heirs of Gaudiano v. Benemerito, G.R. No. 174247, February 21, 2007, 516 SCRA 416, 422.

[32] G.R. No. 103276, April 11, 1996, 256 SCRA 171.

[33] G.R. No. 128628, August 23, 2001, 363 SCRA 535.

[34] G.R. No. 127536, February 19, 2002, 377 SCRA 282.

[35] Navarro v. Metropolitan Bank and Trust Company, G.R. No. 138031, May 27, 2004, 429 SCRA 439,446.

[36] Id.

[37] Fukuzumi v. Sanritsu Great International Corporation, G.R. No. 140630, August 12, 2004, 436 SCRA 228, 234, citing Jose v. Court of Appeals, G.R. No. 128646, March 14, 2003, 399 SCRA 83.

[38] Philhouse Development Corporation v. Consolidated Orix Leasing and Finance Corporation, G.R. No. 135287, April 14, 2001, 356 SCRA 281, 285 citing Bernardo v. Court of Appeals, G.R. No. 106153, July 14, 1997, 275 SCRA 413; Greenhills Airconditioning and Services, Inc. v. National Labor Relations Commission, G.R. No. 112850, June 27, 1995, 245 SCRA 384.

[39]Id. citing Pallada v. Regional Trial Court of Kalibo, G.R. No. 129442, March 10, 1999, 304 SCRA 440.

[40]Land Bank of the Philippines v. Ascot Holdings and Equities Inc., G.R. No. 175163, October 19, 2007, 537 SCRA 396.

[41] Id.

[42] Fukuzumi v. Sanritsu Great International Corporation, supra note 37, at 233, citing Ibabao v. Intermediate Appellate Court, No. L-74848, May 20, 1987, 150 SCRA 76.

[43] Navarro v. Metropolitan Bank and Trust Company, supra note 35, citing Badillo v. Tayag, G.R. No. 143976, April 3, 2003, 400 SCRA 494.

[44] Id.

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.