

MATEA PAMPOLINA AND JUAN VISTAL, PLAINTIFFS AND APPELLANTS, VS. MARIA NIEVES SUIZ AND MELECIO OSUNA, DEFENDANTS AND APPELLEES.

G. R. No. 17870. September 01, 1921

Ponente: JOHNSON, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-17870/>

JOHNSON, J.:

Upon an examination of the record we find that the question presented is whether or not the appeal in the present case was perfected in time. If not, the court is without jurisdiction to consider the same and it should be dismissed.

Appellate courts have the right to examine the record for the purpose of determining whether they have jurisdiction or not to consider the appeal, even though that question has not been raised by any of the parties. Jurisdiction of appellate courts is not conferred by consent of the parties. The right to appeal is statutory. (*Layda vs. Legazpi*, 39 Phil., 83; *Lim vs. Singian and Soler*, 37 Phil., 817.)

The primary purpose in fixing definite times for doing certain acts connected with the perfection of appeals is to ascertain when a judgment in a civil case or a sentence in a criminal cause is final and subject to be executed. Parties litigant should know when the litigation is terminated and for that purpose legislatures and courts have established certain rules and regulations fixed the time when a judgment or sentence becomes final.

In this jurisdiction the legislature and the courts have established various rules for the purpose of determining when a decision or sentence is final, depending upon the character of the action.

In criminal actions the time and manner of perfecting an appeal is fixed by section 45 of General Orders No. 58. (*U. S. vs. Tenorio*, 37 Phil., 7, and cases cited.)

In ordinary civil action the time and manner of perfecting an appeal is fixed by various provisions of the law and rules of the court. (Sec. 143, Act No. 190; sec. 27, Act No. 2347; *Layda vs. Legazpi*, 39 Phil., 83; *Villanueva vs. Tamarra*, 39 Phil., 238; *Director of Lands vs. Municipality of Dingras*, 40 Phil., 242.)

In land registration cases the time and manner of perfecting appeals is fixed by section 26 of Act No. 2347. (*Director of Lands vs. Maurera and Tiongson*, 37 Phil., 410; *Director of Lands vs. Municipality of Dingras*, *supra*, and cases cited.)

In special proceedings, such as the legalization of wills, administration of estates of deceased persons, etc., the time and manner of perfecting appeal is fixed by various provisions of Act No. 190 and by the rules of the court.

In the present case, the decision was rendered on the 14th day of March, 1921, Notice of said decision was received by the plaintiffs-appellants on the 15th day of March, 1921. A motion for a new trial was presented on the first day of April, 1921. The motion for a new trial was denied on the 9th day of April, 1921. The plaintiffs-appellants received notice of the auto of the court, denying the motion for a new trial, on the 15th day of April, 1921. On the 19th day of April, 1921, the plaintiffs-appellants presented an exception to the auto denying

the motion for a new trial. On the 27th day of April, 1921, the plaintiffs-appellants (without having theretofore announced their intention to appeal to the Supreme Court), for the first time announced their intention to appeal to the Supreme Court and on the same day presented a bill of exceptions.

In the case of *Layda vs. Legazpi* (39 Phil., 83) promulgated by this court on the 12th day of November, 1918, it was decided that in an ordinary action the defeated party has (a) thirty days within which to present a motion for a new trial; (b) after notice of the ruling upon his motion for a new trial, he has five days within which to present an exception and "notice of his intention to present a bill of exceptions"; (c) after the presentation of "notice of his intention to present a bill of exceptions" he has ten days within which to present his bill of exceptions (*Lim vs. Singian and Soler*, 37 Phil., 817); (d) that a failure to comply with any of the foregoing requirements within the various periods mentioned, will cause the judgment to become final, upon which a writ of execution may issue, and the presentation of a bill of exceptions will not give the appellate court jurisdiction; and (e) each and all of said periods may be extended by order of the court upon application made prior to the expiration of the respective periods.

The only purpose of excepting to the order of the court denying the motion for a new trial is to require and justify the Supreme Court in making an examination of the evidence. (Par. 2, sec. 497, Act No. 190.)

If the party does not desire to have the evidence examined by the Supreme Court, then it is not necessary to present a motion for a new trial nor to make any exception to the ruling of the court thereon. In view of that fact, the courts, in many cases, have held that even though the defeated party presented a motion for a new trial, and even though he did not except to the order of the court, nor announced his intention to appeal, the Supreme Court would take jurisdiction over the appeal, providing the bill of exceptions was presented within ten days from the time of the notice of the order of the court denying the motion for a new trial, but that, in such a case, this court would not be justified in making an examination of the evidence.

In the present case, the plaintiffs not having announced their intention to appeal, and not having presented their bill of exceptions until after the lapse of ten days from the notice of the order of the court denying their motion for a new trial, we are without jurisdiction to consider the appeal, and, for that reason, the same is hereby dismissed, with costs against the appellants. So ordered.

Araullo, Street, Avancena, and Villamor, JJ., concur.

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.