

TUNG HO STEEL ENTERPRISES CORPORATION, PETITIONER, VS. TING GUAN TRADING CORPORATION, RESPONDENT.

G.R. No. 182153. April 07, 2014

Ponente: BRION, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-182153/>

BRION, J.:

We resolve the petition for review on certiorari[1] filed by petitioner Tung Ho Steel Enterprises Corp. (Tung Ho) to challenge the July 5, 2006 decision[2] and the March 12, 2008 resolution[3] of the Court of Appeals (CA) in CA-G.R. SP No. 92828.

The Factual Antecedents

Tung Ho is a foreign corporation organized under the laws of Taiwan, Republic of China.[4] On the other hand, respondent Ting Guan Trading Corp. (Ting Guan) is a domestic corporation organized under the laws of the Philippines.[5]

On January 9, 2002, Ting Guan obligated itself under a contract of sale to deliver heavy metal scrap iron and steel to Tung Ho. Subsequently, Tung Ho filed a request for arbitration before the ICC International Court of Arbitration (ICC) in Singapore after Ting Guan failed to deliver the full quantity of the promised heavy metal scrap iron and steel.[6]

The ICC ruled in favor of Tung Ho on June 18, 2004 and ordered Ting Guan to pay Tung Ho the following: (1) actual damages in the amount of US\$ 659,646.15 with interest of 6% per annum from December 4, 2002 until final payment; (2) cost of arbitration in the amount of US \$ 47,000.00; and (3) legal costs and expenses in the amount of NT \$ 761,448.00 and US \$ 34,552.83.[7]

On October 24, 2004, Tung Ho filed an action against Ting Guan for the recognition and enforcement of the arbitral award before the Regional Trial Court (RTC) of Makati, Branch 145. Ting Guan moved to dismiss the case based on Tung Ho's lack of capacity to sue and for prematurity. Ting Guan subsequently filed a supplemental motion to dismiss based on improper venue. Ting Guan argued that the complaint should have been filed in Cebu where its principal place of business was located.[8]

The Proceedings before the RTC

The RTC denied Ting Guan's motion to dismiss in an order dated May 11, 2005. Ting Guan moved to reconsider the order and raised the RTC's alleged lack of jurisdiction over its person as additional ground for the dismissal of the complaint. Ting Guan insisted that Ms. Fe Tejero, on whom personal service was served, was not its corporate secretary and was not a person allowed under Section 11, Rule 14 of the Rules of Court to receive a summons. It also asserted that Tung Ho cannot enforce the award in the Philippines without violating public policy as Taiwan is not a signatory to the New York Convention.[9]

The RTC denied the motion in an order dated November 21, 2005 and ruled that Ting Guan had voluntarily

submitted to the court's jurisdiction when it raised other arguments apart from lack of jurisdiction in its motion to dismiss.

The Proceedings before the CA

Ting Guan responded to the denials by filing a petition for certiorari before the CA with an application for the issuance of a temporary restraining order and a writ of preliminary injunction.[10]

In its Memorandum, Tung Ho argued that a Rule 65 petition is not the proper remedy to assail the denial of a motion to dismiss. It pointed out that the proper recourse for Ting Guan was to file an answer and to subsequently appeal the case. It also posited that beyond the reglementary period for filing an answer, Ting Guan was barred from raising other grounds for the dismissal of the case. Tung Ho also claimed that the RTC acquired jurisdiction over the person of Ting Guan since the return of service of summons expressly stated that Tejero was a corporate secretary.[11]

In its decision dated July 5, 2006, the CA dismissed the complaint for lack of jurisdiction over the person of Ting Guan. The CA held that Tung Ho failed to establish that Tejero was Ting Guan's corporate secretary. The CA also ruled that a petition for certiorari is the proper remedy to assail the denial of a motion to dismiss if the ground raised in the motion is lack of jurisdiction. Furthermore, any of the grounds for the dismissal of the case can be raised in a motion to dismiss provided that the grounds were raised before the filing of an answer. The CA likewise ruled that Tung Ho properly filed the complaint before the RTC-Makati.[12]

Subsequently, both parties moved to partially reconsider the CA decision. Tung Ho reiterated that there was proper service of summons. On the other hand, Ting Guan sought to modify the CA decision with respect to the proper venue of the case. The CA denied Ting Guan's motion for partial reconsideration in an order dated December 5, 2006.[13]

Ting Guan immediately proceeded to file a petition for review on certiorari before this Court to question the CA's rulings as discussed below. In the interim (on February 11, 2008), Tung Ho (whose motion for reconsideration of the CA decision was still pending with that court) filed a "Motion to Supplement and Resolve Motion for Reconsideration" before the CA. In this motion, Tung Ho prayed for the issuance of an alias summons if the service of summons had indeed been defective, but its motion proved unsuccessful.[14]

It was not until March 12, 2008, after the developments described below, that the CA finally denied Tung Ho's partial motion for reconsideration for lack of merit.

Ting Guan's Petition before this Court (G.R. No. 176110)

Ting Guan's petition before this Court was docketed as G.R. No. 176110. Ting Guan argued that the dismissal of the case should be based on the following additional grounds: first, the complaint was prematurely filed; second, the foreign arbitral award is null and void; third, the venue was improperly laid in Makati; and lastly, the enforcement of the arbitral award was against public policy.[15]

On April 24, 2007, Tung Ho filed its Comment dated April 24, 2007 in G.R. No. 176110, touching on the issue of jurisdiction, albeit lightly. Tung Ho complained in its Comment that Ting Guan engaged in dilatory tactics when Ting Guan belatedly raised the issue of jurisdiction in the motion for reconsideration before the RTC. However, Tung Ho did not affirmatively seek the reversal of the July 5, 2006 decision. Instead, it merely stated that Ting Guan's petition "cannot be dismissed on the ground that the summons was wrongfully issued as the petitioner can always move for the issuance of an alias summons to be served". Furthermore, Tung Ho only prayed that Ting Guan's petition be denied in G.R. No. 176110 and for other just and equitable reliefs. In other words, Tung Ho

failed to effectively argue its case on the merits before the Court in G.R. No. 176110.

On June 18, 2007, we issued our Resolution denying Ting Guan's petition for lack of merit. On November 12, 2007, we also denied Ting Guan's motion for reconsideration. On January 8, 2008, the Court issued an entry of judgment in Ting Guan's petition, G.R. No. 176110.

After the entry of judgment, we referred the matter back to the RTC for further proceedings. On January 16, 2008, the RTC declared the case closed and terminated. Its order stated:

Upon examination of the entire records of this case, an answer with caution was actually filed by the respondent to which a reply was submitted by the petitioner. Since the answer was with the qualification that respondent is not waiving its claim of lack of jurisdiction over its person on the ground of improper service of summons upon it and that its petition to this effect filed before the Court of Appeals was acted favorably and this case was dismissed on the aforementioned ground and it appearing that the Decision as well as the Order denying the motion for reconsideration of the petitioner now final and executory, the Order of November 9, 2007 referring this petition to the Court Annexed Mediation for possible amicable settlement is recalled it being moot and academic. This case is now considered closed and terminated.

On February 6, 2008, Tung Ho moved to reconsider the RTC order. Nothing in the records shows whether the RTC granted or denied this motion for reconsideration.

Tung Ho's Petition before this Court
(G.R. No. 182153)

On May 7, 2008, Tung Ho seasonably filed a petition for review on certiorari to seek the reversal of the July 5, 2006 decision and the March 12, 2008 resolution of the CA. This is the present G.R. No. 182153 now before us.

Tung Ho reiterates that the RTC acquired jurisdiction over the person of Ting Guan. It also claims that the return of service of summons is a prima facie evidence of the recited facts i.e., that Tejero is a corporate secretary as stated therein and that the sheriff is presumed to have regularly performed his official duties in serving the summons. In the alternative, Tung Ho argues that Ting Guan's successive motions before the RTC are equivalent to voluntary appearance. Tung Ho also prays for the issuance of alias summons to cure the alleged defective service of summons.[16]

Respondent Ting Guan's Position
(G.R. No. 182153)

In its Comment, Ting Guan submits that the appeal is already barred by res judicata. It also stresses that the Court has already affirmed with finality the dismissal of the complaint.[17] Ting Guan also argues that Tung Ho raises a factual issue that is beyond the scope of a petition for review on certiorari under Rule 45 of the Rules of Court.[18]

The Issues

This case presents to us the following issues:

- 1) Whether the present petition is barred by res judicata; and
- 2) Whether the trial court acquired jurisdiction over the person of Ting Guan, specifically:
 - a) Whether Tejero was the proper person to receive the summons; and
 - b) Whether Ting Guan made a voluntary appearance before the trial court.

The Court's Ruling

We find the petition meritorious.

I. The Court is not precluded from ruling on the jurisdictional issue raised in the petition

A. The petition is not barred by res judicata

Res judicata refers to the rule that a final judgment or decree on the merits by a court of competent jurisdiction is conclusive on the rights of the parties or their privies in all later suits on all points and matters determined in the former suit.[19] For res judicata to apply, the final judgment must be on the merits of the case which means that the court has unequivocally determined the parties' rights and obligations with respect to the causes of action and the subject matter of the case.[20]

Contrary to Ting Guan's position, our ruling in G.R. No. 176110 does not operate as res judicata on Tung Ho's appeal; G.R. No. 176110 did not conclusively rule on all issues raised by the parties in this case so that this Court would now be barred from taking cognizance of Tung Ho's petition. Our disposition in G.R. No. 176110 only dwelt on technical or collateral aspects of the case, and not on its merits. Specifically, we did not rule on whether Tung Ho may enforce the foreign arbitral award against Ting Guan in that case.

B. The appellate court cannot be ousted of jurisdiction until it finally disposes of the case

The court's jurisdiction, once attached, cannot be ousted until it finally disposes of the case. When a court has already obtained and is exercising jurisdiction over a controversy, its jurisdiction to proceed to the final determination of the case is retained.[21] A judge is competent to act on the case while its incidents remain pending for his disposition.

The CA was not ousted of its jurisdiction with the promulgation of G.R. No. 176110. The July 5, 2006 decision has not yet become final and executory for the reason that there remained a pending incident before the CA – the resolution of Tung Ho's motion for reconsideration – when this Court promulgated G.R. No. 176110. In this latter case, on the other hand, we only resolved procedural issues that are divorced from the present jurisdictional question before us. Thus, what became immutable in G.R. No. 176110 was the ruling that Tung Ho's complaint is not dismissible on grounds of prematurity, nullity of the foreign arbitral award, improper venue, and the foreign arbitral award's repugnance to local public policy. This leads us to the conclusion that in the absence of any ruling on the merits on the issue of jurisdiction, res judicata on this point could not have set in.

C. Tung Ho's timely filing of a motion for reconsideration and of a petition for review on certiorari prevented the July 5, 2006 decision from attaining finality

Furthermore, under Section 2, Rule 45 of the Rules of Court, Tung Ho may file a petition for review on certiorari before the Court within (15) days from the denial of its motion for reconsideration filed in due time after notice of the judgment. Tung Ho's timely filing of a motion for reconsideration before the CA and of a Rule 45 petition before this Court prevented the July 5, 2006 CA decision from attaining finality. For this Court to deny Tung Ho's petition would result in an anomalous situation where a party litigant is penalized and deprived of his fair opportunity to appeal the case by faithfully complying with the Rules of Court.

II. The trial court acquired jurisdiction over the person of Ting Guan

A. Tejero was not the proper person to receive the summons

Nonetheless, we see no reason to disturb the lower courts' finding that Tejero was not a corporate secretary and, therefore, was not the proper person to receive the summons under Section 11, Rule 14 of the Rules of Court. This Court is not a trier of facts; we cannot re-examine, review or re-evaluate the evidence and the factual review made by the lower courts. In the absence of compelling reasons, we will not deviate from the rule that factual findings of the lower courts are final and binding on this Court.[22]

B. Ting Guan voluntarily appeared before the trial court

However, we cannot agree with the legal conclusion that the appellate court reached, given the established facts.[23] To our mind, Ting Guan voluntarily appeared before the trial court in view of the procedural recourse that it took before that court. Its voluntary appearance is equivalent to service of summons.[24]

As a basic principle, courts look with disfavor on piecemeal arguments in motions filed by the parties. Under the omnibus motion rule, a motion attacking a pleading, order, judgment, or proceeding shall include all objections then available.[25] The purpose of this rule is to obviate multiplicity of motions and to discourage dilatory motions and pleadings. Party litigants should not be allowed to reiterate identical motions, speculating on the possible change of opinion of the courts or of the judges thereof.

In this respect, Section 1, Rule 16 of the Rules of Court requires the defendant to file a motion to dismiss within the time for, but before filing the answer to the complaint or pleading asserting a claim. Section 1, Rule 11 of the Rules of Court, on the other hand, commands the defendant to file his answer within fifteen (15) days after service of summons, unless a different period is fixed by the trial court. Once the trial court denies the motion, the defendant should file his answer within the balance of fifteen (15) days to which he was entitled at the time of serving his motion, but the remaining period cannot be less than five (5) days computed from his receipt of the notice of the denial.[26]

Instead of filing an answer, the defendant may opt to file a motion for reconsideration. Only after the trial court shall have denied the motion for reconsideration does the defendant become bound to file his answer.[27] If the defendant fails to file an answer within the reglementary period, the plaintiff may file a motion to declare the defendant in default. This motion shall be with notice to the defendant and shall be supported by proof of the failure.[28]

The trial court's denial of the motion to dismiss is not a license for the defendant to file a Rule 65 petition before the CA. An order denying a motion to dismiss cannot be the subject of a petition for certiorari as the defendant still has an adequate remedy before the trial court – i.e., to file an answer and to subsequently appeal the case if he loses the case.[29] As exceptions, the defendant may avail of a petition for certiorari if the ground raised in the motion to dismiss is lack of jurisdiction over the person of the defendant[30] or over the subject matter.[31]

We cannot allow and simply passively look at Ting Guan's blatant disregard of the rules of procedure in the present case. The Rules of Court only allows the filing of a motion to dismiss once.[32] Ting Guan's filing of successive motions to dismiss, under the guise of "supplemental motion to dismiss" or "motion for reconsideration", is not only improper but also dilatory.[33] Ting Guan's belated reliance on the improper service of summons was a mere afterthought, if not a bad faith ploy to avoid the foreign arbitral award's enforcement

which is still at its preliminary stage after the lapse of almost a decade since the filing of the complaint.

Furthermore, Ting Guan's failure to raise the alleged lack of jurisdiction over its person in the first motion to dismiss is fatal to its cause. Ting Guan voluntarily appeared before the RTC when it filed a motion to dismiss and a "supplemental motion to dismiss" without raising the RTC's lack of jurisdiction over its person. In *Anunciacion v. Bocanegra*,^[34] we categorically stated that the defendant should raise the affirmative defense of lack of jurisdiction over his person in the very first motion to dismiss. Failure to raise the issue of improper service of summons in the first motion to dismiss is a waiver of this defense and cannot be belatedly raised in succeeding motions and pleadings.

Even assuming that Ting Guan did not voluntarily appear before the RTC, the CA should have ordered the RTC to issue an alias summons instead. In *Lingner & Fisher GMBH vs. Intermediate Appellate Court*^[35], we enunciated the policy that the courts should not dismiss a case simply because there was an improper service of summons. The lower courts should be cautious in haphazardly dismissing complaints on this ground alone considering that the trial court can cure this defect and order the issuance of alias summons on the proper person in the interest of substantial justice and to expedite the proceedings.

III. A Final Note

As a final note, we are not unaware that the present case has been complicated by its unique development. The complication arose when the CA, instead of resolving the parties' separate partial motions for reconsideration in one resolution, proceeded to first resolve and to deny Ting Guan's partial motion. Ting Guan, therefore, went to this Court via a petition for review on certiorari while Tung Ho's partial motion for reconsideration was still unresolved.

Expectedly, Ting Guan did not question the portions of the CA decision favorable to it when it filed its petition with this Court. Instead, Ting Guan reiterated that the CA should have included additional grounds to justify the dismissal of Tung Ho's complaint with the RTC. The Court denied Ting Guan's petition, leading to the entry of judgment that improvidently followed. Later, the CA denied Tung Ho's partial motion for reconsideration, prompting Tung Ho's own petition with this Court, which is the present G.R. No. 182153.

Under the Rules of Court, entry of judgment may only be made if no appeal or motion for reconsideration was timely filed.^[36] In the proceedings before the CA, if a motion for reconsideration (including a partial motion for reconsideration^[37]) is timely filed by the proper party, execution of the CA's judgment or final resolution shall be stayed.^[38] This rule is applicable even to proceedings before the Supreme Court, as provided in Section 4, Rule 56 of the Rules of Court. ^[39]

In the present case, Tung Ho timely filed its motion for reconsideration with the CA and seasonably appealed the CA's rulings with the Court through the present petition (G.R. No. 182153).

To now recognize the finality of the Resolution of Ting Guan petition (G.R. No. 176110) based on its entry of judgment and to allow it to foreclose the present meritorious petition of Tung Ho, would of course cause unfair and unjustified injury to Tung Ho. First, as previously mentioned, the Ting Guan petition did not question or assail the full merits of the CA decision. It was Tung Ho, the party aggrieved by the CA decision, who substantially questioned the merits of the CA decision in its petition; this petition showed that the CA indeed committed error and Tung Ho's complaint before the RTC should properly proceed. Second, the present case is for the enforcement of an arbitral award involving millions of pesos. Tung Ho already won in the foreign arbitration and the present case is simply for the enforcement of this arbitral award in our jurisdiction. Third, and most importantly, Tung Ho properly and timely availed of the remedies available to it under the Rules of Court,

which provide that filing and pendency of a motion for reconsideration stays the execution of the CA judgment. Therefore, at the time of the entry of judgment in G.R. No. 176110 in the Supreme Court on January 8, 2008, the CA decision which the Court affirmed was effectively not yet be final.

Significantly, the rule that a timely motion for reconsideration stays the execution of the assailed judgment is in accordance with Rule 51, Section 10 (Rules governing the CA proceedings) which provides that “entry of judgments may only be had if there is no appeal or motion for reconsideration timely filed. The date when the judgment or final resolution becomes executory shall be deemed as the date of its entry.” Incidentally, this procedure also governs before Supreme Court proceedings.[40] Following these rules, therefore, the pendency of Tung Ho’s MR with the CA made the entry of the judgment of the Court in the Ting Guan petition premature and inefficacious for not being final and executory.

Based on the above considerations, the Court would not be in error if it applies its ruling in the case of Realty Sales Enterprises, Inc. and Macondray Farms, Inc. v. Intermediate Appellate Court, et al.[41] where the Court, in a per curiam resolution, ruled that an entry of judgment may be recalled or lifted *motu proprio* when it is clear that the decision assailed of has not yet become final under the rules:

The March 6, 1985 resolution denying reconsideration of the January 30, 1985 resolution was, to repeat, not served on the petitioners until March 20, 1985 - and therefore the Jan. 30, 1985 resolution could not be deemed final and executory until one (1) full day (March 21) had elapsed, or on March 22, 1985 (assuming inaction on petitioners' part.) The entry of judgment relative to the January 30, 1985 resolution, made on March 18, 1985, was therefore premature and inefficacious. An entry of judgment does not make the judgment so entered final and executory when it is not so in truth. An entry of judgment merely records the fact that a judgment, order or resolution has become final and executory; but it is not the operative act that makes the judgment, order or resolution final and executory. In the case at bar, the entry of judgment on March 18, 1985 did not make the January 30, 1985 resolution subject of the entry, final and executory. As of the date of entry, March 18, 1985, notice of the resolution denying reconsideration of the January 30, 1985 resolution had not yet been served on the petitioners or any of the parties, since March 18, 1985 was also the date of the notice (and release) of the March 6, 1985 resolution denying reconsideration.

According to this ruling, the *motu proprio* recall or setting aside of the entry of final judgment was proper and “entirely consistent with the inherent power of every court *inter alia* to amend and control its process and orders so as to make them conformable to law and justice [Sec. 5(g), Rule 135, Rules of Court,]. That the recall has in fact served to achieve a verdict consistent with law and justice is clear from the judgment subsequently rendered on the merits.” This course of action is effectively what the Court undertook today, adapted of course to the circumstances of the present case.

In light of these premises, we hereby REVERSE and SET ASIDE the July 5, 2006 decision and the March 12, 2008 resolution of the Court of Appeals in CA-G.R. SP No. 92828. SP. Proc. No. M.-5954 is hereby ordered reinstated. Let the records of this case be remanded to the court of origin for further proceedings. No costs.

SO ORDERED.

Carpio, (Chairperson), Del Castillo, Perez, and Perlas-Bernabe, JJ., concur.

[1] Dated May 7, 2008 and filed under Rule 45 of the Rules of Court; rollo, pp. 16-43.

[2] Id. at 52-69; penned by Associate Justice Jose L. Sabio, Jr., and concurred in by Associate Justices Rosalinda Asuncion-Vicente and Sesinando E. Villon.

[3] Id. at 114-115.

[4] Id. at 18, 47.

[5] Id. at 18.

[6] Ibid.

[7] Rollo in G.R. No. 176110, pp.117-151.

[8] Rollo, pp. 53-54.

[9] Id. at 20.

[10] Id. at 54-56.

[11] Id. at 57-60.

[12] Id. at 66-68.

[13] Id. at 24-25.

[14] Id. at 89-98.

[15] Rollo in G.R. No. 176110, pp. 4-29.

[16] Id. at 31-42.

[17] Id. at 126-130.

[18] Id. at 132.

[19] *Taganas v. Emuslan and Standard Insurance Co., Inc.*, 457 Phil. 306-307, 311-312 (2003).

[20] *Spouses Antonio v. Sayman vda. de Monje*, G.R. No. 149624, September 29, 2010, 631 SCRA 471-472, 479-480.

[21] *Alindao v. Joson*, G.R. No. 114132, November 14, 1996, 264 SCRA 212, 221; *Bernate v. Court of Appeals*, G.R. No. 107741, October 18, 2006, 263 SCRA 325-326, 339; and *Aruego, Jr. v. Court of Appeals*, G.R. No. 112193, March 13, 1996, 254 SCRA 712, 719-720.

[22] *Co v. Vargas*, G.R. No. 195167, November 16, 2011, 660 SCRA 451-452, 459-460; and *Diesel Construction Co., Inc. v. UPSI Property Holdings, Inc.*, G.R. Nos. 154885 and 154937, March 24, 2008, 549 SCRA 14, 15, 30-31.

[23] In *Chu v. Caparas*, G.R. No. 175428, April 15, 2013, we stated:

A question of law arises when there is doubt as to what the law is on a certain state of facts, while there is a question of fact when the doubt arises as to the truth or falsity of the alleged facts.

[24] RULES OF COURT, Rule 14, Section 20.

[25] RULES OF COURT, Rule 15, Section 8.

[26] RULES OF COURT, Rule 16, Section 4.

[27] *Narciso v. Garcia*, G.R. No. 196877, November 21, 2012, 686 SCRA 249.

[28] RULES OF COURT, Rule 9, Section 3.

[29] *de Zuzuarregui, Jr. v. Court of Appeals*, 264 Phil. 1124, 1127 (1990); *Aurelio v. Aurelio*, G.R. No. 175367, June 6, 2011, 650 SCRA 571-572.

[30] *Philamlife v. Breva*, 484 Phil. 824-831 (2004).

[31] *de Zuzuarregui, Jr. v. Court of Appeals*, *supra* note 29.

[32] Section 8, Rule 15 of the Rules of Court in relation to Section 1, Rule 9 of the Rules of Court.

[33] *Boston Equity Resources, Inc. v. Court of Appeals*, G.R. No. 173946, June 19, 2013.

[34] G.R. No. 152496, July 30, 2009, 594 SCRA 319, 329.

[35] G.R. No. L-63557, October 28, 1983, 125 SCRA 523, 527.

[36] Rules of Court, Rule 51, Section 10. Entry of judgments and final resolutions. – If no appeal or motion for new trial or reconsideration is filed within the time provided in these Rules, the judgment or final resolution shall forthwith be entered by the clerk in the book of entries of judgments. The date when the judgment or final resolution becomes executory shall be deemed as the date of its entry. The records shall contain the dispositive part of the judgment or final resolution has become final and executory.

[37] *Id.*, Rule 37, Section 7. - A partial motion for reconsideration is an available remedy in our procedure. Thus, if the grounds for a motion (for reconsideration) appear to the court to affect the issues as to only a part, or less than an of the matter in controversy, or only one, or less than all, of the parties to it, the court may order a new trial or grant reconsideration as to such issues if severable without interfering with the judgment or final order upon the rest.

[38] *Id.*, Rule 52, Section 4. Stay of execution. – The pendency of a motion for reconsideration shall stay the execution of the judgment or final resolution sought to be reconsidered unless the court, for good reasons, shall direct otherwise.

[39] Procedure. - The appeal shall be governed by and disposed of in accordance with the applicable provisions of the Constitution, laws, Rules 45, 48, sections 1, 2, and 5 to 11 of Rule 51, 52 and this Rule.

[40] Pursuant to Section 4, Rule 56 of the Rules of Court.

[41] G.R. No. L-67451 April 25, 1989.

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.