

TRINIDAD AQUINO, PLAINTIFF AND APPELLANT, VS. CRISTINA TONGCO, DEFENDANT AND APPELLANT.

G.R. No. 44104. August 23, 1935

Ponente: VILLA-REAL, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-44104/>

VILLA-REAL, J.:

This is a motion filed by the defendant Cristina Tongco, praying for the dismissal of the appeal taken by the plaintiff Trinidad Aquino, on the ground that the bill of exceptions had been presented out of time and that in approving it the court a quo acted without jurisdiction.

The pertinent facts necessary for the resolution of the question raised in said motion are as follows:

On March 30, 1935, the plaintiff Trinidad Aquino received notice of the adverse decision of the Court of First Instance of Manila.

On April 26, 1935, or twenty-seven days after receipt of notice of the judgment, said plaintiff filed a motion for a new trial on the ground that said decision is against the law and the weight of the evidence and that it was rendered as a result of "an accident or surprise which ordinary prudence could not have guarded against and by reason of which the party applying has probably been impaired in her rights."

On April 30, 1935, said plaintiff received notice of the order denying her motion for a new trial, and on May 3, 1935, she filed a motion for the reopening of the trial based on the same ground as that of said motion for a new trial, that is, that the decision was rendered as a result of "an accident or surprise which ordinary prudence could not have guarded against and by reason of which the party applying has probably been impaired in her rights," and an ex parte petition excepting to the order of April 30, 1935, denying her motion for a new trial, and praying that pending final action on said motion for the reopening of the trial the period of five days for the filing of the notice of appeal as well as that of ten days for the filing of the bill of exceptions be extended, if necessary, so that the period for the filing of the notice of appeal be counted from the final action on said motion for the reopening of the trial.

On May 6, 1935, said plaintiff received notice of the order of the lower court dated May 4, 1935, granting her petition for an extension of time, dated May 3, 1935.

On May 22, 1935, the plaintiff received notice of the order of the lower court dated May 20, 1935, denying her petition for the reopening of the trial dated May 3, 1935.

On June 13, 1935, the same plaintiff filed a motion praying for the reconsideration of the order denying her petition for the reopening of the trial.

On June 24, 1935, the court issued an order denying the motion for reconsideration but giving her a period of ten days from notice of said order within which to file her bill of exceptions.

It will be seen that from March 30, 1935, when the plaintiff received notice of the decision, to April 26, 1935,

when she filed her motion for a new trial, twenty-seven days elapsed, leaving only three days of the thirty days within which to file said motion for a new trial. The motion for a reopening filed by the plaintiff on May 3, 1935, based on the same ground as that of her motion for a new trial, being a mere repetition thereof, did not suspend either the running of the three days remaining of the said thirty days prescribed by law for the filing of the motion for a new trial, or that of the five days for the filing of the notice of appeal, from April 30, 1935, when she had been notified of the order denying her motion for a new trial. Although the motion for the extension of said period of five days was granted by the lower court, the appellant's motion for a reopening having been denied of which she was notified on May 22, 1935, and having failed to file her notice of appeal within the five days from said date, the appealed judgment became final (*Layda vs. Legazpi*, 39 Phil., 83). The motion for a reopening of the trial being superfluous, the motion for reconsideration of the order denying said motion for a reopening was also superfluous and produced no effect whatsoever, not even that of suspending of the period of five days for the filing of the notice of appeal which began to run from May 22, 1935, when the appellant received notice of said order denying her motion for a reopening of the trial, and expired on the 27th of said month and year.

The trial court's order of June 24, 1935, giving the appellant a period of ten days within which to file her bill of exceptions was, therefore, issued without jurisdiction, said court having lost it when its decision became final.

If the parties could file several motions for a new trial or reopening of the case based on the same grounds, and if each motion suspended the running of the period of thirty days within which to file the motion for a new trial, the perfecting of appeals would be at the mercy of litigants and the purpose of the law, which is precisely to prevent all unnecessary delay in the final determination of judicial cases, would be defeated.

In the case of *San Miguel Brewery vs. Legarda* (48 Phil., 507), this court, in laying down the doctrine that the law does not limit the motion for a new trial to be filed to only one provided it is done within the period of thirty days from the date the petitioner is notified of the decision, did not mean to say that several motions for a new trial based on the same ground may be filed, but that each motion should be based on a different legal ground. Said case involved two motions for a new trial, the first based on newly discovered evidence and the second on the ground that the decision was contrary to law and to the weight of the evidence.

For the foregoing considerations, we are of the opinion and so hold: (1) That the party desiring to appeal from an adverse judgment may file several motions for a new trial within the period of thirty days, but each must be based on different legal grounds; (2) that when a motion for a new trial based on any of the grounds provided in section 145 of the Code of Civil Procedure has been filed, suspending the running of the thirty-day period provided in said section, the filing of another motion based on the same ground as that of the former motion will not produce the same effect; and (3) that when a decision has become final for failure to file the notice of appeal within the five days following the denial of the motion for a new trial or the extension thereof (*Layda vs. Legazpi*, 39 Phil., 83), the court granting an extension of time for the filing of the bill of exceptions and approving the same after the filing thereof, acts without jurisdiction and the appeal is not perfected.

Wherefore, the motion is granted and it is ordered that the appeal taken by appellant Trinidad Aquino be dismissed, with costs So ordered.

Avanceña, C.J., Malcolm, Abad Santos, Hull, Vickers, Imperial, Butte, Goddard, Diaz, and Recto, JJ., concur.

Motion granted and appeal dismissed.

[1] Resolution of August 28, 1935.

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.