

ROSARIO GUEVARA AND PEDRO BUYSON, PETITIONERS, VS. THE COURT OF APPEALS AND ERNESTO M. GUEVARA, RESPONDENTS.

G.R. No. 48160. August 12, 1942

Ponente: BOCOBO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-48160/>

BOCOBO, J.:

Petitioners ask that the Court of Appeals be ordered to desist from further taking cognizance of the appeal taken by respondent Ernesto M. Guevara for lack of jurisdiction because said Ernesto M. Guevara failed to file the required appeal bond.

The judgment of the Court of First Instance of Pangasinan dated February 6, 1940, in Civil Case No. 7618, ordered defendant therein Ernesto M. Guevara to deliver to plaintiffs therein, Rosario Guevara and Pedro Buyson, a certain portion of a piece of land. Both sides appealed. On July 31, 1940, respondent herein, Ernesto M. Guevara, in his steps to perfect his appeal, offered to file an appeal bond, in these terms:

"Defendant-appellant Ernesto M. Guevara is ready and willing to file the corresponding appeal bond provided for in the New Rules of Court should it be decided that the same is applicable to the instant case which was commenced and decided by the trial court before said new rules went into effect."

The Court of First Instance approved the record on appeal but did not require or mention any appeal bond. Petitioners herein asked the Court of Appeals to dismiss the appeal for failure to file an appeal bond, but that court on October 24, 1940, denied the motion.

The question is whether the old Code of Civil Procedure or the new Rules of Court should be applied: in the former case, no appeal bond is necessary but in the latter case, such bond is required.

Rule 133 of the new Rules of Court provides :

"RULE 133. Effectiveness.—These rules shall take effect on July 1, 1940. They shall govern all cases brought after they take effect, and also all further proceedings in cases then pending, except to the extent that in the opinion of the court their application would not be feasible or would work injustice, in which event the former procedure shall apply."

We are the opinion that under the circumstances of this case the application of the new Rules of Court would work an injustice because respondent Ernesto M. Guevara having offered to file an appeal bond and the trial court having approved the record on appeal without requiring a bond, it would be unfair to dismiss his appeal for lack of the very requisite which he was ready and willing to fulfill.

Wherefore, the petition for prohibition is hereby denied, with costs against the petitioners. So ordered.

Yulo, C. J., Moran, Ozaeta and Paras, 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.