

**REMIGIO QUIQUI, EMILIANA Q. ARELLANO, TURCUATA Q.
DIPUTADO, APOLONIA Q. SALCEDOR, LORETO QUIQUI, SUPLICIA Q.
CHAN, ELDEGUNDA Q. MONASTERIO, ELSA Q. ARBON AND ANTIPAS
Q. YANG, PE...**

G.R. No. 51841. June 30, 1987

Ponente: GANCAYCO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-51841/>

GANCAYCO, J.:

This is a Petition for certiorari, prohibition and mandamus. It concerns a parcel of agricultural land situated in Barangay Cabangan, Siaton, Negros Oriental with an area of about 450 square meters. The said parcel of land is a portion of Lot No. 3217, Pls--659-D covered by Free Patent Title No. FV-13703. The improvements on the parcel of land in question include several fruit trees and a modest residential house.

The record of the case reveals that on May 22, 1973, the herein private respondents Estefania G. Amolo, Lope Amolo, Sofia G. Albon, Pastor Gadingan, Angel Gadingan, Antero Gadingan, Teofilo Gadingan and Felicitas Gadingan were able to secure Free Patent Title No. FV--13703 in their names. The 450-square meter lot in question was included in the survey of the entire parcel of land covered by the said Title.

On the other hand, it is the position of the herein petitioners Remigio Quiqui, Emiliana Q. Arellano, Turcuata Q. Diputado, Apolonia Q. Salcedor, Loreto Quiqui, Suplicia Q. Chan, Eldegunda Q. Monasterio, Elsa Q. Arbon and Antipas Q. Yang that the 450-square meter lot in question belongs to them and not to the private respondents. They contend that the said lot was purchased by their late father sometime in 1920 and that ever since then, they have been in actual possession thereof, peacefully, openly, continuously and adversely, for a period of 56 years already. They also contend that the private respondents succeeded in putting the said property in their name by clandestinely including the said lot in the survey of the premises undertaken by the Government sometime in the 1970s.

On November 9, 1976, the petitioners, assisted by the Citizens Legal Assistance Office of the then Ministry of Justice, filed a Complaint in the Court of First Instance of Negros Oriental for "reconveyance and/or annulment of Title with damages" against the private respondents.[1] The said Complaint was anchored on the theory that the title to the lot in question obtained by the private respondents in their name was secured through fraud. The case was docketed as Civil Case No. 6606.

On December 5, 1976, the private respondents filed their Answer to the Complaint, alleging, inter alia, that the petitioners have no cause of action against them. By way of Counterclaim, the private respondents sought the payment to them of moral damages and attorney's fees.[2]

Thereafter, a pre-trial conference was scheduled by the trial court. Inasmuch as the parties could not reach an amicable settle-ment of their case, the pre-trial conference was terminated and the case was set for trial on the merits. In the course of the proceedings, more particularly on May 10, 1979, the private respondents filed a

Motion to dismiss the case on the ground of lack of jurisdiction on the part of the trial court.[3]

On June 7, 1979, the petitioners submitted their Opposition to the said Motion, stressing that the trial court has jurisdiction over cases for reconveyance.[4] In its Order dated July 16, 1979, the trial court, with respondent Judge Alejandro R. Boncaros presiding, dismissed the Complaint for reconveyance on the ground that it had no jurisdiction over the case.[5] Counsel for the petitioners received a copy of the said Order on July 17, 1979.[6]

On August 17, 1979, the petitioners filed a Motion for the reconsideration of the Order of the trial court dismissing the Complaint.[7] The said Motion for Reconsideration is dated August 16, 1979.

The private respondents opposed the Motion for Reconsideration, stating that the same had been filed beyond the 30-day reglementary period under the Rules. The private respondents maintain that inasmuch as the petitioners received their copy of the Order of dismissal on July 17, 1979, they had up to August 16, 1979 to file the Motion for Reconsideration, computed on the basis of the 30-day reglementary period. They contend that since the said Motion was filed beyond the 30-day period, the Order of dismissal has become final and executory and could no longer be the subject of a Motion for Reconsideration.[8] In its Order dated August 21, 1979, the trial court denied the Motion for Reconsideration on the ground asserted by the private respondents.[9]

On August 23, 1979, the petitioners filed a Notice of Appeal, seeking relief from the Court of Appeals. They sought the Appeal on the ground that the Orders of the trial court dismissing their Complaint and denying their Motion for Reconsideration are contrary to law and the evidence submitted.[10] On August 24, 1979, the petitioners filed their Appeal Bond, together with their Motion to approve the same.

In its Order dated August 28, 1979, the trial court denied the Notice of Appeal, including the Motion to approve the Appeal Bond. The pertinent portion of the said Order are as follows -?

"THE order of dismissal of this Court which was dated July 16, 1979 was received by the plaintiffs (the herein petitioners) on July 17, 1979. Under Section 3, Rule 41 of the Revised. Rules of Court, the period to appeal is thirty (30) days, so with the motion for a reconsideration so that (sic) under Art. 13 of the Civil Code that in the computation of the period exclude the first (day), include the last (sic), August 16, 1979 therefore was the last day to file the motion for reconsideration but it was filed on August 17 or one day late and this motion for reconsideration was denied by this Court on August 21, 1979 (sic). The reason for the denial was the motion for reconsideration was filed (sic) beyond the reglementary period, in which case, the notice of appeal xxx (was) likewise filed beyond the reglementary period xxx.

"xxx." [11]

Finding the action taken by the trial court unsatisfactory, the petitioners brought their case directly to this Court by way of the instant Petition for certiorari, prohibition and mandamus under Rule 65 of the Rules of Court. They maintain that the Order of the trial court dated July 16, 1979 is illegal and void for having been "issued without jurisdiction or in excess of jurisdiction or with grave abuse of discretion, for the so-called 'one day late' (ground) upon which it is based does not actually exist." [12] They pray, inter alia, that the trial court be ordered to approve their Notice of Appeal. [13]

Complying with the instructions of this Court, the private respondents submitted their Comment on the Petition. [14]

In the Resolution of this Court dated January 14, 1980, We gave due course to the instant Petition. [15] The parties submitted their respective Memoranda after which the case was deemed submitted for decision on June 11, 1980.

After a careful examination of the entire record of the case, We find the instant Petition devoid of merit.

At the time this litigation was instituted in the trial court, Section 3, Rule 41 of the Rules of Court was the provision governing the period within which an Appeal may be taken to the Court of Appeals, to wit --

"SEC. 3. How appeal is taken. -- Appeal may be taken by serving upon the adverse party and filing with the trial court within thirty (30) days from notice of order or judgment, a notice of appeal, an appeal bond, and a record on appeal. The time during which a motion to set aside the judgment or order or for a new trial has been pending shall be deducted, unless such motion fails to satisfy the requirements of Rule 37.

"But where such a motion has been filed during office hours of the last day of the period herein provided, the appeal must be perfected within the day following that in which the party appealing received notice of the denial of said motion."

Under this cited provision, the Appeal may be taken within 30 days from notice of the judgment or order of the trial court.[16] In the event that the party aggrieved by the judgment or order of the trial court files a Motion to set aside the judgment or order, i.e., a Motion for Reconsideration, the time during which such Motion is pending resolution shall, as a rule, be deducted from the 30-day period.[17] In relation thereto, the New Civil Code states that in computing a period, the first day shall be excluded and the last day included.[18]

The petitioners admit that they received their copy of the Order of dismissal of their Complaint on July 17, 1979. Under Section 3, Rule 41, they had 30 days within which to appeal their case or to file a Motion for Reconsideration of the judgment or order of the trial court. In computing the 30-day period, July 17, 1979 (the first day) is excluded, pursuant to Article 13 of the New Civil Code. Counting 30 days thereafter, beginning on July 18, 1979, the petitioners had up to August 16, 1979 to file their Motion for Reconsideration. Their Motion for Reconsideration, although dated August 16, 1979, was filed with the trial court on August 17, 1979 or one day beyond the 30-day reglementary period prescribed by Section 3 of Rule 41.

Under these circumstances, the order of the trial court dis-missing the Complaint has become final and executory. As such, it is beyond the reach of a Motion for Reconsideration.[19] The Notice of Appeal, therefore, was properly denied. Perfection of an appeal in the manner and within the period laid down by law is not only mandatory but also jurisdictional and failure to perfect an appeal as required by the rules has the effect of rendering the judgment final and executory. A strict observance of the reglementary period within which to exercise the statutory right of appeal has been considered as absolutely indispensable to the prevention of needless delays.[20]

As a last recourse in support of their case, the petitioners invoke the following observations made by this Court in *De Las Alas v. Court of Appeals*,[21] to wit:

"Regardless, however, of the above findings and even assuming that respondents' position were correct, WE find that a one-day delay does not justify the dismissal of the appeal under the circumstances obtaining in this case. The real purpose behind the limitation of the period of appeal is to forestall or avoid an unreasonable delay, in the administration of justice and to put an end to controversies xxx." [22]

Unfortunately for the petitioners, the observation made by this Court in *De Las Alas* does not apply to their case.

In *De Las Alas*, the view expressed by this Court to the effect that "a one-day delay does not justify the dismissal of the appeal" is qualified by the phrase "under the circumstances obtaining in this case". Unlike the situation faced by the herein petitioners, there is no showing that the petitioners in the *De Las Alas* case failed to file their Motion for Reconsideration as well as their Record on Appeal with-in the reglementary period. On the contrary, this Court noted therein the lack of delay on the part of the petitioners in that case, viz -?

"Furthermore, WE note from the records the absence or lack of the element of intent to delay the

administration of justice on the part of petitioners in this case. On the contrary, petitioners' counsel have demonstrated cautiousness, concern and punctuality in the prosecution of the appeal. They filed their motion for reconsideration October 7, 1972, even if the respondent lower court judge had given them an extension up to October 24, 1972, with-in which to file the said motion. Petitioners had up to December 25, 1972, within which to submit their record on appeal, yet they filed their record on appeal on December 8, 1972, or 17 days before the deadline."^[23]

Moreover, a doubtful and controversial question of law confronted the parties in the De Las Alas case, i.e., the matter of computing the reglementary period for filing an Appeal. The respondent court found petitioner had only two (2) days left to perfect the appeal after the denial of the motion for reconsideration while this Court held petitioners had three (3) days left deducting the period within which the motion for reconsideration has been pending, excluding the first day in the computation of the period, but since the last day falls on a Sunday the period of appeal is ipso jure extended to the first working day immediately following.^[24] In the case at bar, however, there is no such doubtful or controversial question of law submitted for Our resolution.

For the petitioners to seek exception for their failure to comply strictly with the requirements for perfecting their Appeal, strong compelling reasons, like the prevention of a grave miscarriage of justice, must be shown to exist in order to warrant this Court to suspend the Rules.^[25] No such reasons have been shown to exist in this case. In fact, the petitioners did not even offer any reason-able explanation for their delay.

On the basis of the foregoing discussion, We find no jurisdictional infirmity, sufficient to call for the issuance of the corrective writ of certiorari, in the action taken by the trial court. As stated earlier, the instant Petition is devoid of merit.

WHEREFORE, in view of the foregoing, the instant Petition for certiorari, prohibition and mandamus is hereby DISMISSED for lack of merit. We make no pronouncement as to costs.

SO ORDERED.

Yap, (Chairman), Narvasa, Melencio-Herrera, Cruz, Feliciano, and Sarmiento, JJ., concur.

[1] Pages 13 to 16, Rollo.

[2] Page 19, Rollo.

[3] Pages 23 to 26, Rollo.

[4] Pages 28 to 31, Rollo.

[5] Pages 32 to 33, Rollo.

[6] Pages 4 and 5, Petition.

[7] Page 5, Petition; pages 34 to 36, Rollo.

[8] Page 37, Rollo.

[9] Page 38, Rollo.

[10] Page 39, Rollo.

[11] Page 44, Rollo.

[12] Page 7, Petition.

[13] Page 9, Petition.

[14] Pages 47 to 49, Rollo.

[15] Page 52, Rollo.

[16] Section 3, Rule 41 has been modified by Section 39 of Batas Pambansa Blg. 129, otherwise known as The Judiciary Act of 1981. The period within which an Appeal may be taken has been reduced to 15 days, except in habeas corpus cases.

[17] First paragraph, Section 3, Rule 41.

[18] Article 13, New Civil Code.

[19] *Elizalde & Co., Inc. v. Court of Industrial Relations*, 25 SCRA 58, 61-62 (1968). See also *Carreon v. Workmen's Compensation Commission*, 77 SCRA 297, 300 (1977).

[20] *Macabingkil vs. People's Homesite and Housing Corp.*, 72 SCRA 339, L-29080, Aug. 17, 1976; *Luzon Stevedoring Corp. vs. Reyes*, 71 SCRA 661, L-43469, June 30, 1976.

[21] 83 SCRA 200 (1978).

[22] Citing *Dy Cay v. Crossfield*, 38 Phil. 521 (1918).

[23] 83 SCRA at 215.

[24] *Supra*, applying *Lloren vs. De Vera*, 4 SCRA 637.

[25] *Workmen's Insurance Co., Inc. v. Augusto*, 40 SCRA 123, 127 (1971). See also *Ronquillo v. Marasigan*, 5 SCRA 304, 312-313 (1962).

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.