

**AVELINO C. AGULTO, PETITIONER, VS. HON. COURT OF APPEALS,
HON. FRANCISCO Z. CONSOLACION, PRESIDING JUDGE OF BRANCH
II OF THE COURT OF FIRST INSTANCE OF DAVAO; AND THE PEOPLE
OF ...**

G.R. No. 52728. January 17, 1990

Ponente: GRINO-AQUINO. J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-52728/>

GRINO-AQUINO. J.:

This is a petition for review on certiorari of the decision dated December 10, 1979 of the Court of Appeals in CA-G.R. No. 06198, affirming the trial court's order denying the accused's motion to reopen the trial for the purpose of presenting newly-discovered evidence in his favor.

On April 23, 1970, an information for bigamy was filed against the petitioner, Avelino C. Agulto, alleging as follows:

"That on or about December 30, 1968, in the City of Davao, Philippines, and within the jurisdiction of this Honorable Court, the above-mentioned accused, having been previously united in lawful marriage with one Maria Pilar Gaspar, which marriage is still in force and subsisting and without having been legally dissolved, willfully, unlawfully and feloniously contracted a second marriage with Andrea Suico." (p.11, Rollo.)

After the trial was finished and the parties had rested, but before judgment was promulgated, the accused filed on November 12, 1975 a motion to reopen the trial on the ground of newly-discovered evidence, i.e., a copy of a marriage contract between Andrea Suico and one Romeo Vergeire supposedly contracted on July 19, 1960, or before Andrea's marriage to the petitioner.

On March 23, 1976, the court denied the motion on the ground that it was filed too late because the accused, with due diligence, could have discovered the so-called newly-discovered evidence sooner and could have presented it during the trial, it appearing that he was appraised of the alleged marriage of Andrea Suico and Romeo Vergeire on October 17, 1972 yet.

Petitioner's motion for reconsideration of the court's order was also denied. He then filed a petition for certiorari in the Court of Appeals alleging that the respondent Judge gravely abused his discretion in refusing to allow him to adduce the newly-discovered evidence which would have shown that his second marriage on December 30, 1968 to Andrea Suico was null and void because the latter was previously married in July 19, 1960 to a certain Romeo Vergeire; that said evidence was not available to petitioner at the time of the presentation of his evidence but only after the parties had rested their case.

The respondents opposed the petition contending among others, that the alleged newly-discovered evidence (the marriage contract between Andrea Suico and Romeo Vergeire) does not bear the seal of the justice of the peace who solemnized the marriage. The Court notes, moreover, that the document does not indicate the municipality and the province where the municipal court is located. The xerox copy of the alleged marriage contract is not

properly certified and authenticated, and, on its face it appears that the marriage was celebrated without a marriage license (p. 21, Rollo).

The Court of Appeals denied the petition for certiorari for lack of merit. Hence, this petition for review.

The issue boils down to whether the Court of Appeals and the trial court gravely abused their discretion in refusing to reopen the trial.

A distinction should be made between a Motion for New Trial and a Motion to Reopen Trial.

A Motion for New Trial may be filed after judgment but within the period for perfecting an appeal (Sec. 1, Rule 37, Rules of Court).

A Motion to Reopen Trial may be presented only after either or both parties have formally offered and closed their evidence, but before judgment. There is no specific provision in the Rules of Court for motions to reopen trial. It is albeit a recognized procedural recourse or device, deriving validity and acceptance from long, established usage. The reopening of a case for the reception of further evidence before judgment is not the granting of a new trial (*Alegre vs. Reyes*, 161 SCRA 226).

A motion for new trial in civil or criminal actions may be applied for and granted only upon specific, well-defined grounds set forth respectively in Rules 37 (Section 1) and 121 (Section 2). On the other hand, the reopening of a case for the reception of additional evidence after a case has been submitted for decision but before judgment is actually rendered is, it has been said, controlled by no other rule than that of the paramount interests of justice, resting entirely in the sound judicial discretion of a Trial Court; and its concession, or denial, by said Court in the exercise of that discretion will not be reviewed on appeal unless a clear abuse thereof is shown. (*Italics supplied.*)

Petitioner's motion to reopen the trial on the ground of newly-discovered evidence of a previous marriage between .Andrea Suico and Romeo Vergeire, assuming the marriage was valid, was not supported by evidence that said marriage was still existing when Andrea Suico wed the petitioner. On the other hand, the fact that the fiscal did not charge her with bigamy is significant. Unlike Agulto, she was found by the fiscal to be under no impediment to contract a second marriage.

Considering the defects of the xerox copied document which the accused Agulto claims to be his "newly-discovered evidence," the trial court's order denying his motion to reopen the trial was properly sustained by the Court of Appeals. His motion bears the earmarks of a merely dilatory pleading. Still, it has succeeded in delaying this case for fourteen (14) years.

WHEREFORE, the petition for review is denied for lack of merit. This decision is immediately executory. Costs against the petitioner.

SO ORDERED.

Narvasa, Gancayco, and Medialdea, JJ., concur.

Cruz, J., no part, related to respondents' counsel.

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.