

**PONCIANO ESMERIS, PETITIONER, VS. HON. RODOLFO A. ORTIZ,
PRESIDING JUDGE OF THE COURT OF FIRST INSTANCE OF RIZAL,
BRANCH XXXI, QUEZON CITY, AND ROBERTO VISEY, RESPONDENTS.**

G.R. No. 61553. March 16, 1988

Ponente: PADILLA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-61553/>

PADILLA, J.:

This case originated from a complaint for specific performance and damages, filed by private respondent Roberto Visey against the petitioner herein, Ponciano Esmeris. After trial on the merits, the court a quo rendered a decision dated 30 October 1980 adverse to the petitioner. Within the reglementary period, or on 16 December 1980, petitioner filed a notice of appeal, appeal bond and a motion for extension of time to file record on appeal, which was granted by the respondent court. Within the period granted by the court, petitioner filed his record on appeal. Acting on the oppositon filed by private respondent, the respondent court issued an order, dated 27 March 1981, ordering the petitioner to submit an amended record on appeal within twenty (20) days from receipt of the order. The record shows that petitioner, thru counsel, received copy of said order on 16 April 1981. On 31 August 1981, or more than four (4) months after his receipt of the order dated 27 March 1981, petitioner filed an amended record on appeal.

On 18 January 1982, respondent court issued an order disapproving the amended record on appeal, on the ground that it was filed out of time, "for which reason, this court can no longer approve the same, since, as of its filing, the judgment in this case has already become final and executory".

On the basis of the order of the respondent court, dated 18 January 1982, private respondent filed a motion for execution dated 10 February 1982. This was opposed by petitioner who likewise moved for reconsideration of the order of the respondent court dated 18 January 1982. Despite opposition, the court a quo granted the motion for execution of private respondent in an order dated 24 February 1982. Petitioner filed a motion for reconsideration. On 13 July 1982, the respondent court denied the two (2) motions for reconsideration of petitioner.

Hence, the present petition for mandamus to compel the respondent Judge to allow petitioner's appeal. The petition is not impressed with merit.

Section 39 of the Judiciary Reorganization Act of 1981 (Batas Pambansa Blg. 129), approved 14 August 1981, provides that a record on appeal shall no longer be required, as a general rule, to take an appeal. Likewise, Section 18 of the Interim Rules and Guidelines issued by the Court on 11 January 1983 contains the same provision. Being procedural in nature, the aforecited provisions may be given retroactive application. But this rule is not absolute. As we stated in *The Municipal Government of Caron, Palawan vs. Carino et. al.*,^[1]:

"We have resolved the issue as to the extent of the retroactive application of section 18 of the Interim Rules of Court in *Alday v. Camilon* (120 SCRA 521). We reiterated the rule that:

"Statutes regulating the procedure of the courts will be construed as applicable to actions pending and

undetermined at the time of their passage. Procedural laws are retrospective in that same and to that extent". (People v. Sumilang, 77 Phil. 764 [1946]) Underscoring supplied".

In the present case, there is no question that the decision of the respondent court had already become final and executory when petitioner's amended record on appeal was filed. Although petitioner filed his notice of appeal and appeal bond on time and his original record on appeal within the period granted by the trial court, it is to be noted that such record on appeal was not timely approved by the court because it was ordered amended due to the opposition by the private respondent, and the amended record on appeal was filed by petitioner long after the period granted by the respondent court for the filing of such amended record on appeal. Thus, petitioner's appeal was never perfected.

When petitioner filed his amended record on appeal on 31 August 1981, this was more than four (4) months from his receipt, thru counsel, of the order dated 27 March 1981 requiring him to submit an amended record on appeal. The same date (31 August 1981) was also more than three (3) months from the date he should have filed his amended record on appeal, which was twenty (20) days from his receipt of the order dated 27 March 1981, his date of receipt of said order being 16 April 1981. Since the decision of the trial court had long become final and executory, the orders of the respondent court disapproving petitioner's amended record on appeal and granting the motion for execution of private respondent were proper.

WHEREFORE, the petition is hereby DENIED. With costs against the petitioner.

SO ORDERED.

Yap, (Chairman), Melencio-Herrera, Paras, and Sarmiento, JJ., concur.

[1] G.R. No. 65894, promulgated on 24 September 1987.

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.