

TOMAS LAO, PETITIONER, VS. LETICIA ABIANDA TO-CHIP, RAMON TO-CHIP AND COURT OF APPEALS, RESPONDENTS.*G.R. No. 76597. February 26, 1988*

Ponente: FERNAN, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-76597/>**FERNAN, J.:**

On the basis of private respondent Leticia Abianda To-Chip's letters-complaint addressed to the Land District Officer of the Bureau of Lands, the Supervising Land Examiner of said Bureau filed a complaint against petitioner Tomas Lao with the Provincial Fiscal of Samar for alleged violation of Presidential Decree No. 772, which penalizes squatting and other similar acts. After preliminary investigation, the Provincial Fiscal dismissed the criminal charges for lack of merit.

Alleging that the filing of said complaint publicly put him to shame as he is a businessman with a gross annual income of forty million pesos, petitioner filed in the then Court of First Instance of Samar an action for damages based on Articles 20 and 21 of the Civil Code against Private Respondent To-Chip and her husband Ramon To-Chip, the latter as a nominal party.[1]

In its decision, the lower court awarded petitioner moral damages of P50,000 and attorney's fees and litigation expenses of P10,000. Both parties appealed to the Court of Appeals.

On August 1, 1986, the Court of Appeals, thru its First Civil Cases Division composed of Justices Ramon G. Gaviola, Jr., Ma. Rosario Quetulio-Losa and Leonor Ines Luciano, with Justice Luciano as ponente, promulgated a decision reversing the lower court's decision and dismissing the complaint. Petitioner filed a motion for reconsideration assailing the validity of the Court of Appeals decision on the ground that on August 1, 1986, the appellate court had no jurisdiction to issue said decision as two of the three members of the First Civil Cases Division had been "effectively disempowered to sit thereon as of July 31, 1986" as a result of the reorganization of said court.[2]

In its resolution of November 7, 1986, the Court of Appeals denied the motion for reconsideration. Said resolution which was also penned by Justice Luciano and concurred in by Justices Jorge R. Coquia and Emeterio C. Cui states that the justices who were not re-appointed because of the reorganization held office in a hold-over capacity until the newly appointed as well as re-appointed justices took their oath of office before the President at 2:00 o'clock in the afternoon of August 1, 1986. As the questioned decision was promulgated at 11:45 A.M. of August 1, 1986, the justices who were not re-appointed were still validly performing judicial functions including the promulgation of decisions.

Consequently, petitioner filed the instant petition for review on certiorari raising, among others, the issue of the jurisdiction of the Court of Appeals to promulgate the decision of August 1, 1986 as "there was no existing quorum and hence no authority to exercise any judicial power pertaining to the Court of Appeals".[3]

We agree with the petitioner.

On July 28, 1986, President Corazon C. Aquino issued Executive Order No. 33. Said executive order amends certain sections of the Judiciary Act of 1980 and renames the Intermediate Appellate Court as the Court of Appeals. Pertinent to this case is Section 6 thereof which amends Section 11 of the Judiciary Act as follows:

"SEC. 11. Quorum. - A majority of the actual members of the Court shall constitute a quorum for its session en banc. Three members shall constitute a quorum for the sessions of a division. The unanimous vote of the three members of a division shall be necessary for the pronouncement of a decision or final resolution, which shall be reached in consultation before the writing of the opinion by any member of the division. In the event that the three members do not reach a unanimous vote, the Presiding Justice shall request the raffle Committee of the Court for the designation of two additional Justices to sit temporarily with them, forming a special division of five members and the concurrence of a majority of such division shall be necessary for the pronouncement of a decision or final resolution. The designation of such additional Justices shall be made strictly by raffle.

xxx xxx xxx." (Underscoring supplied)

In line with the reorganization of the Court of Appeals, all the justices tendered their resignation. The records of the Office of the Court Administrator reveal that on July 30, 1986, President Aquino accepted the resignations of the justices of the Court of Appeals. The following day, July 31, 1986, the President appointed the Presiding Justice and forty-one (41) Associate Justices of said court.

At 5:20 o'clock in the afternoon of July 31, 1986, this Court received the communication of the President regarding her acceptance of the resignations of the Justices of the Court of Appeals. This Court then informed the justices concerned about said communication. Hence, the office of Justice Gaviola received the notice of the President's acceptance of his resignation at 8:15 P.M. of the same day while the office of Justice Quetulio-Losa received such notice at 8:30 A.M. of the following day, August 1, 1986.

From these facts, it is clear that when the decision in question was promulgated at 11:45 A.M. on August 1, 1986, Justices Gaviola and Quetulio-Losa had both ceased to be members of the Court of Appeals since at that time, they had been informed that their resignations had been accepted by the President. It is, therefore, immaterial that the newly appointed and re-appointed justices took their oath of office at 2:00 o'clock in the afternoon of August 1, 1986. What is crucial is that when the questioned decision was promulgated, two of the three justices necessary to constitute a quorum in a division had lost their authority to act as justices by reason of the presidential acceptance of their resignations. To endorse the opinion of the Court of Appeals that the justices who were not re-appointed were acting in a hold-over capacity until their replacements shall have taken their oath of office, will abet, rather than avoid, a disorderly administration of justice.

Time and again, We have ruled that to be binding, a judgment must be duly signed and promulgated during the incumbency of the judge who signed it.[4] Thus, the promulgation of a decision after a judge retires is null and void.[5] Fairness, equity and justice demand that the same rulings, although they involved judges of the lower courts, should be applied with equal force to cases involving decisions promulgated by the higher courts the justices of which have resigned.

ACCORDINGLY, the decision of August 1, 1986 is hereby declared null and void. This case is remanded to the Court of Appeals for adjudication and promulgation of a new decision.

SO ORDERED.

Gutierrez, Jr., Bidin, and Cortes, JJ., concur.

Feliciano, J., no part, former firm is counsel for one of the parties.

[1] Civil Case No. 5704.

[2] Rollo, p. 63.

[3] Rollo, p. 15

[4] People vs. So, 101 Phil. 1257; People vs. Court of Appeals and Domaloan, 99 Phil. 786; Jimenez vs. Republic, L-24529, February 17, 1968, 22 SCRA 622; Siazon vs. Judge of the CFI of Cotabato, L-29354, January 27, 1969, 26 SCRA 664; Solis vs. Court of Appeals, L-29777-83, March 26, 1971, 38 SCRA 53.

[5] Jandayan vs. Ruiz, L-37471, January 28, 1980, 95 SCRA 562.

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.