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EN BANC

[G.R. Nos. 73146-53. August 26, 1986]

ROSARIO LACSAMANA, FLORENCIO BAUTISTA, QUIRICO PACLIBAR, EDUARDO OCAMPO, JULIO BARIZO, PEDRO PANGILINAN, ET AL., *petitioners, vs.* **THE HONORABLE SECOND SPECIAL CASES DIVISION OF THE INTERMEDIATE APPELLATE COURT, ANICIA I. CRUZ, ET AL.,** *respondents.*

SYLLABUS

1. **REMEDIAL LAW; CIVIL PROCEDURE; APPEALS; MODE AND PERIOD TO FILE UNDER BATAS PAMBANSA BLG. 129; ORDINARY APPEAL BY MERE NOTICE OF APPEAL.—** In an ordinary appeal from the final judgment or order of a metropolitan or municipal trial court to the regional trial court, and from the regional trial court to the Court of Appeals in actions or proceedings originally filed in the regional trial court, *the fifteen-day period for appeal* provided by Section 39 of BP No. 129 and Section 19(a) of the Interim Rules is interrupted or suspended by a motion for new trial or reconsideration, unless such motion fails to satisfy the requirements of Rule 37 (Section 3 of Rule 41). If the motion for new trial or reconsideration is denied, the moving party has only the remaining period from notice of denial within which to file a notice of appeal, which is the only requirement for taking an appeal under the present rules. Obviously, *no extension of time to file such a notice of appeal is needed, much less allowed.*

2. **ID.; ID.; ID.; ID.; APPEALS IN SPECIAL PROCEEDINGS AND OTHER CASES WHEREIN MULTIPLE APPEALS ARE ALLOWED.—** In an appeal in a special proceeding under Rule 109 of the Rules of Court and in other cases *wherein multiple appeals are allowed*, the *period of appeal* is *thirty days, a record on appeal being required* (Section 19(b) of the Interim Rules). If a motion for new trial or reconsideration is filed and denied, the remaining period within which to file a record on appeal may be too short and, hence, *a motion for extension of time to*

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file the record on appeal may be granted, subject to the requirements summarized in the Resolution of May 30, 1986.

3. **ID.; ID.; ID.; ID.; APPEALS BY PETITION FOR REVIEW TO THE COURT OF APPEALS.**— The final judgment or order of a regional trial court in an appeal from the final judgment or order of a metropolitan trial court, municipal trial court and municipal circuit trial court, may be appealed to the Court of Appeals through a petition for review in accordance with Section 22 of BP No. 129 and Section 22 (b) of the Interim Rules, or to this Court through a petition for review on *certiorari* in accordance with Rule 45 of the Rules of Court and Section 25 of the Interim Rules. The reason for extending the period for filing of a record on appeal is also applicable to the filing of a petition for review with the Court of Appeals. *The period for filing a petition for review is fifteen days.* If a motion for reconsideration is filed with and denied by a regional trial court, the movant has only remaining period within which to file a petition for review. Hence, it *may be necessary* to file a *motion* with the Court of Appeals *for extension of time to file such petition for review.*

4. **ID.; ID.; ID.; ID.; APPEALS FROM QUASI-JUDICIAL BODIES TO THE COURT OF APPEALS.**— In an appeal from quasi-judicial bodies to the Court of Appeals under Republic Act No. 5434 and Section 22 (c) of the Interim Rules, the appeal shall be taken by filing a *notice of appeal* with the Court of Appeals and with the quasi-judicial body *within fifteen days from notice of the ruling*, award, order, decision or judgment; or in case a motion for reconsideration is filed within said period, then *within ten days from notice of the resolution denying the motion for reconsideration* (Sections 2 and 3 of RA No. 5434). *No extension of time to file such a notice of appeal is needed, much less allowed.*

5. **ID.; ID.; ID.; ID.; APPEALS BY *CERTIORARI* TO THE SUPREME COURT.**— In an appeal by *certiorari* to this Court under Rule 45 of the Rules of Court, Section 25 of Interim Rules and Section 7 of PD No. 1606, a party may file a petition for review on *certiorari* of the judgment of a regional trial court, the Intermediate Appellate Court, or the Sandiganbayan *within fifteen days from notice* of judgment or of the denial of his motion for reconsideration filed in due time, and paying at the same time the corresponding docket fee (Section 1 of Rule 45).

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In other words, *in the event a motion for reconsideration is filed and denied, the period of fifteen days begins to run again from notice of denial.* (See *Codilla vs. Estenzo*, 97 SCRA 351; *Turingan vs. Cacdac*, 122 SCRA 634.) *A motion for extension of time to file a petition for review on certiorari* may be filed with the Supreme Court *within the reglementary period, paying at the same time the corresponding docket fee.* Copies of the motion for extension of time and of the subsequent petition for review on *certiorari* must be served on the lower court and on the adverse party.

6. **ID.; ID.; ID.; ID.; PERIOD OF EXTENSION OF TIME TO FILE PETITION FOR REVIEW WITH COURT OF APPEALS.**— *Beginning one month after the promulgation* of this Decision, and extension of *only fifteen days* for filing a petition for review may be granted by the Court of Appeals, save in exceptionally meritorious cases. The motion for extension of time must be filed and the corresponding docket fee paid within the reglementary period of appeal. Copies of the motion for extension of time and of the subsequent petition for review must be served on the regional trial court and on the adverse party.

APPEARANCES OF COUNSEL

Edmundo A. Baculi for petitiones.
Francisco G.H. Salva for respondents.

D E C I S I O N

FERIA, *J.*:

The Court rules, for the guidance of Bench and Bar, that a motion for extension of time to file a petition for review under Section 22 of The Judiciary Reorganization Act (Batas Pambansa Blg. 129) and Section 22(b) of the Interim Rules, may properly be filed with and granted by the Intermediate Appellate Court (now renamed Court of Appeals).

In the case at bar, a decision was rendered against petitioners by the Regional Trial Court of Makati, Metro Manila, in an appeal from the decision of the Metropolitan Trial Court of

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Makati, Metro Manila. Copy of said decision was received by counsel for petitioners on September 30, 1985. On October 11, 1985, counsel for petitioners filed a motion with respondent Court for 15 days extension or up to October 30, 1985 to file a petition for review on the ground that he needed additional time to finalize the pleading (Petition for Review) in view of his other written pleadings and trial commitments. Together with the filing of the motion for extension petitioners paid the necessary docket fees.

However, on October 16, 1985, a decision was promulgated by the Second Special Cases Division of respondent Court which is quoted in full as follows:

"As the Supreme Court in the recent case of *Habaluyas Enterprises, Inc. vs. Judge Maximo Japzon,* G.R. No. 70895, August 5, 1985, ruled that '*the period for appealing* or for filing a motion for reconsideration cannot be extended,' petitioners' motion for extension of fifteen (15) days within which to file a petition for review of the decision of the Regional Trial Court of Makati, Branch 143, in Civil Cases Nos. 5160 to 5167, the title of which they failed to mention in their motion, is denied.

"WHEREFORE, this case is declared terminated. The Division Clerk of Court is ordered to furnish the respondents with a copy of this decision."

As hereinbelow noted, the original decision of this Court above cited did not involve the period for appealing; it involved the period for filing a motion for reconsideration and this decision was reversed by the court *en banc* on May 30, 1986.

On October 30, 1985, petitioner filed a motion for reconsideration and attached thereto for admission the petition for review. On December 4, 1985, a division of five Members of respondent Court promulgated a resolution denying the motion for reconsideration. One Justice dissented and voted to grant petitioners' motion for reconsideration, while another Justice concurred in denying the motion but held that the doctrine laid down in *Habaluyas vs. Hon. Japzon* did not constitute a hard and fast rule and that such motions for extension of time must be addressed to the sound discretion of the court.

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Petitioners then filed the present petition for *certiorari* to set aside and declare null and void the abovestated decision and resolution of respondent Court. Private respondents have filed a Manifestation and Motion for Early Resolution of this case.

We rule in favor of petitioners.

The issue in the case of *Habaluyas Enterprises, Inc. vs. Japzon* was whether the fifteen-day period within which a party may file a motion for reconsideration of a final order or ruling of the Regional Trial Court may be extended. The Second Division of this Court originally held that this could not be done and set aside the order of respondent Judge granting private respondents' motion for new trial. The question of the granting of a motion for extension of time to file a petition for review was not involved in said case. On May 30, 1986, acting on a motion for reconsideration, this Court *en banc* reversed the original decision and, for the guidance of Bench and Bar, restated and clarified the rules on this point as follows:

"1.) Beginning one month after the promulgation of this Resolution, the rule shall be strictly enforced that *no motion for extension of time to file a motion for new trial or reconsideration* may be filed with the Metropolitan or Municipal Trial Courts, the Regional Trial Courts, and the Intermediate Appellate Court. *Such a motion may be filed only in cases pending with the Supreme Court* as the court of last resort, which may in its sound discretion either grant or deny of the extension requested.

"2.) In appeals in special proceedings under Rule 109 of the Rules of Court and in other cases wherein multiple appeals are allowed, *a motion for extension of time to file the record on appeal* may be filed within the reglementary period of thirty (30) days. (*Moya vs. Barton,* 76 Phil. 831, *Heirs of Nantes vs. Court of Appeals,* July 25, 1983, 123 SCRA 753.) If the court denies the motion for extension, the appeal must be taken within the original period (*Bello vs. Fernando*, January 30, 1962, 4 SCRA 135), inasmuch as such a motion does not suspend the period for appeal (*Reyes vs. Sta. Maria*, November 20, 1972, 48 SCRA 1). The trial court may grant said motion after the expiration of the period for appeal provided it was filed within the original period. (*Valero vs. Court of Appeals*, June 28, 1973, 51

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SCRA 467; *Berkenkotter vs. Court of Appeals*, September 28, 1973, 53 SCRA 228).

"All appeals heretofore timely taken, after extensions of time were granted for the filing of a motion for new trial or reconsideration, shall be allowed and determined on the merits."

The Court further restates and clarifies the modes and periods of appeal as follows:

1) ORDINARY APPEALS BY MERE NOTICE OF APPEAL.

In an ordinary appeal from the final judgment or order of a metropolitan or municipal trial court to the regional trial court, and from the regional trial court to the Court of Appeals in actions or proceedings originally filed in the regional trial court, the *fifteen-day period for appeal* provided by Section 39 of BP No. 129 and Section 19(a) of the Interim Rules is interrupted or suspended by a motion for new trial or reconsideration, unless such motion fails to satisfy the requirements of Rule 37 (Section 3 of Rule 41). If the motion for new trial or reconsideration is denied, the moving party has only the remaining period from notice of denial within which to file a notice of appeal, which is the only requirement for taking an appeal under the present rules. Obviously, *no extension of time to file such a notice of appeal is needed, much less allowed.*

2) APPEALS IN SPECIAL PROCEEDINGS AND OTHER CASES WHEREIN MULTIPLE APPEALS ARE ALLOWED.

In an appeal in a special proceeding under Rule 109 of the Rules of Court and in other cases *wherein multiple appeals are allowed,* the *period of appeal* is *thirty days, a record on appeal being required* (Section 19[b] of the Interim Rules). If a motion for new trial or reconsideration is filed and denied, the remaining period within which to file a record on appeal may be too short and, hence, *a motion for extension of time to file the record on appeal may be granted,* subject to the requirements summarized in the Resolution of May 30, 1986. As the Court stated in the case of *Roque vs. Gunigundo*, "the thirty-day period may be extended because, where the record is voluminous or the appellant has other pressing matters to

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attend to, it may not be practicable to submit the record on appeal within the reglementary period." (89 SCRA 178, 183)

3) APPEALS BY PETITION FOR REVIEW TO THE COURT OF APPEALS.

The final judgment or order of a regional trial court in an appeal from the final judgment or order of a metropolitan trial court, municipal trial court and municipal circuit trial court, may be appealed to the Court of Appeals through a petition for review in accordance with Section 22 of BP No. 129 and Section 22(b) of the Interim Rules, or to this Court through a petition for review on certiorari in accordance with Rule 45 of the Rules of Court and Section 25 of the Interim Rules. The reason for extending the period for the filing of a record on appeal is also applicable to the filing of a petition for review with the Court of Appeals. *The period for filing a petition for review is fifteen days*. If a motion for reconsideration is filed with and denied by a regional trial court, the movant has only remaining period within which to file a petition for review. Hence, it *may be necessary* to file a *motion* with the Court of Appeals *for extension of time to file such petition for review.*

4) APPEALS FROM QUASI-JUDICIAL BODIES TO THE COURT OF APPEALS.

In an appeal from quasi-judicial bodies to the Court of Appeals under Republic Act No. 5434 and Section 22(c) of the Interim Rules, the appeal shall be taken by filing a *notice of appeal* with the Court of Appeals and with the quasi-judicial body *within fifteen days from notice of the ruling,* award, order, decision or judgment; or in case a motion for reconsideration is filed within said period, then *within ten days from notice of the resolution denying the motion for reconsideration* (Sections 2 and 3 of RA No. 5434). *No extension of time to file such a notice of appeal is needed, much less allowed.*

5) APPEALS BY *CERTIORARI* TO THE SUPREME COURT.

In an appeal by certiorari to this Court under Rule 45 of the Rules of Court, Section 25 of the Interim Rules and Section 7

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of PD No. 1606, a party may file a petition for review on *certiorari* of the judgment of a regional trial court, the Intermediate Appellate Court, or the Sandiganbayan *within fifteen days from notice* of judgment or of the denial of his motion for reconsideration filed in due time, and paying at the same time the corresponding docket fee (Section 1 of Rule 45). In other words, *in the event a motion for reconsideration is filed and denied, the period of fifteen days begins to run again from notice of denial.* (See *Codilla vs. Estenzo*, 97 SCRA 351; *Turingan vs. Cacdac*, 122 SCRA 634.)

A *motion for extension of time* to *file a petition for review on certiorari* may be filed with the Supreme Court *within the reglementary period, paying at the same time the corresponding docket fee.*

Copies of the motion for extension of time and of the subsequent petition for review on *certiorari* must be served on the lower court and on the adverse party.

6) PERIOD OF EXTENSION OF TIME TO FILE PETITION FOR REVIEW.

Beginning one month after the promulgation of this Decision, an extension of *only fifteen days* for filing a petition for review may be granted by the Court of Appeals, save in exceptionally meritorious cases.

The motion for extension of time must be filed and the corresponding docket fee paid within the reglementary period of appeal.

Copies of the motion for extension of time and of the subsequent petition for review must be served on the regional trial court and on the adverse party.

WHEREFORE, the decision of respondent Court promulgated on October 16, 1985 and its resolution promulgated on December 4, 1985 are hereby set aside and said Court is directed to admit the petition for review filed by petitioners for proper determination. This decision is immediately executory.

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SO ORDERED.

Teehankee, C.J., Yap, Fernan, Narvasa, Melencio-Herrera, Alampay, Gutierrez, Jr., Cruz, and *Paras, JJ.,* concur.

Feliciano, J., on leave.

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[G.R. Nos. 69773-75. August 28, 1986]

HABIB ALI, et al., *petitioners, vs.* **THE COMMISSION ON ELECTIONS, et al.,** *respondents.*

[G.R. Nos. 69765-67. August 28, 1986]

MAHADI M. PIMPING, *petitioner, vs.* **THE COMMISSION ON ELECTIONS, et al.,** *respondents.*

[G.R. No. 69846. August 28, 1986]

RASHID SAMPACO, *petitioner, vs.* **THE COMMISSION ON ELECTIONS, et al.,** *respondents.*

SYLLABUS

1. **REMEDIAL LAW; CIVIL PROCEDURE; MOTION FOR RECONSIDERATION; RENDERED MOOT AND ACADEMIC.**— The new Solicitor General, as counsel for public respondent COMELEC, submitted a manifestation, dated May 7, 1986 stating therein that the COMELEC, in its letter dated April 30, 1986, maintains the validity of its decision in installing as local elective officials in Marawi City the private respondents named in the petitions. However, public respondent COMELEC states that on the basis of the information received from the Ministry of Local Government, Messrs. Hadji Abbas M. Basman and Sultan Ali M. Mindalano have now been designated as