

RUBEN BUSTAMANTE, PLAINTIFF AND APPELLEE, VS. PETE ALFONSO, DEFENDANT AND APPELLANT.*G.R. No. L-7778. December 24, 1955*

Ponente: REYES, A., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/220ee0cbb86a/>**REYES, A., J.:**

Pete Alfonso, owner of a restaurant in Manila, was sued in the municipal court of said city by Ruben Bustamante, a cook in said establishment, for the recovery of the sum of P1,465.98 as backpay and the further sum of P300 as attorney's fee. Sentenced by that court to pay plaintiff P698.82, with legal interest, and the further sum of P100 as attorney's fee, defendant appealed to the Court of First Instance of Manila. After the case had been received and docketed in that court, notice of that fact was served on defendant's employee on February 8, 1954 and upon his counsel on February 10. This, notwithstanding, defendant's answer, though dated February 23, was not filed in court until February 26. On March 2 plaintiff filed a motion to have defendant declared in default, and the motion having been granted, the court, after hearing plaintiff's evidence, rendered judgment on March 18 sentencing defendant to pay plaintiff the Sum claimed plus attorney's fee in the sum of P300 and the costs of suit. On March 29 defendant filed a verified motion for reconsideration and new trial, explaining that his failure to file his answer on time was due to accident and excusable negligence, and alleging further that he had a good defense supported by documentary evidence already presented in the municipal court, on the strength of which that court substantially reduced plaintiff's claim. But the motion having been denied, defendant appealed directly to this Court, alleging that the court erred in declaring him in default and overruling his motion for reconsideration.

We find the appeal meritorious.

The tardiness in the filing of the answer in the present case is explained in paragraph (c) of the motion for reconsideration and new trial, which is under oath. The facts therein alleged have not been rebutted. The said paragraph reads:

"(c) That the, undersigned counsel for the defendant prepared the answer on February 23, 1954 and on the same morning instructed his Secretary to personally mail a copy of the said answer, to the attorney for the plaintiff and then to file on the same day with the Clerk of Court the original of the answer accompanied by the proof of the notification to the counsel for plaintiff. The undersigned attorney's secretary, Aida Manahan was the person instructed to make the said service to the plaintiff and the filing of same in Court and she took the original of the answer on the said 23rd day of February, 1954 when she left the office at noon to go home for lunch, with the plan and intention to file the said answer in Court and serve the same on the plaintiff before she returned to the office that afternoon but unfortunately the said Aida Manahan fell suddenly ill with fever early that afternoon and did not report for work in the office of the undersigned attorney until the morning of Friday, the 26th of February 1954 and all the time she had the original and copies of the answer in Court and the undersigned attorney all the time believed that the same have been duly filed as per instruction on February 23, 1954. That when the said Aida Manahan arrived on Friday morning, February 26, and informed the undersigned attorney of what happened, she was instructed to file same, the said answer with the office of the Clerk of Court of the Court of First Instance of Manila and notice be made to plaintiff's attorney. It can be seen

that the delay of one day in the filing of the answer was an accident or surprise considering the facts alleged herein regarding the illness of Aida Manahan and in accordance with decision of the Supreme Court, the judgment by default may be set aside when happenings amount to accident or surprise delay the answer of the defendant and the defendant shows by affidavit or otherwise that he has a valid and meritorious defense. *Ong Guan Can vs. Century Insurance Co.*, 45 Phil., 667."

Petitions for new trial or relief from judgment on the ground of fraud, accident, mistake, or excusable negligence are addressed to the discretion of the court. But the discretion meant is sound discretion exercised in accordance with law. If a given case falls both within the letter and spirit of the rule providing for relief, a denial thereof would amount to an abuse of discretion. (*Coombs vs. Santos*, 24 Phil., 446.)

This Court has already held that the failure of defendant's attorney to file, an answer on time may be excused where such failure was due to the fact that an employee in his office, whose duty it was to notify him of the dates when the time expires for answering or presenting other pleadings in court, had fallen sick and failed to notify him of the deadline for filing the said answer. (*Coombs vs. Santos*, supra.) And tardiness in filing the answer was also excused where it was due to the fact that the attorney's messenger to whom the answer was given for mailing inadvertently misplaced it in a drawer and neglected to mail it, and the attorney, due to illness, was prevented from verifying on time, whether the answer was filed within the period fixed by the rules. (*Herrera vs. Far Eastern Air Transport Inc.*, G. R. No. L-2587, September 19, 1950.)

In the present case it appears that the employee who was commissioned one morning to file the answer which the attorney for the defendant had prepared on time was suddenly taken ill at home early in the afternoon of that day and though she failed to file the answer in court as directed she did not inform the attorney about it until it was too late. Even admitting that, as contended by the appellee, the attorney was negligent in not ascertaining on the last day for the filing of the answer whether that answer was filed or not, still we think that such negligence was excusable. For as the attorney had no knowledge of the employee's sickness, he was justified in assuming that the employee had filed the answer as directed. The attorney's omission to make immediate inquiry as to whether the answer was filed or not may be regarded as mere inadvertence, and it appearing from his verified petition for new trial or relief that he has a meritorious defense which might at least reduce the amount of the claim asserted against him, as it was in fact reduced in the municipal court, we think that the interests of justice would be better served if the defendant were given his day in court and allowed to prove his defense.

Wherefore, overruling as unmeritorious the appellee's motion for the dismissal of the appeal, the order of default and the judgment appealed from are set aside and the case remanded to the court below for further proceedings. Without special pronouncement as to costs.

Paras, C. J., Bengzon, Padilla,, Bautista Angelo, Labrador, Concepcion, and Reyes, J. B. L., JJ., concur.

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.