

**REPARATIONS COMMISSION, BENEDICTO PADILLA, JUAN M. ALBERTO, GREGORIO G. ABAD, CALIXTO O. ZALDIVAR AND HERMINIGILDO ATIENZA, PETITIONERS, VS. HON. JUDGE HIGINIO B. MACADAEG, HON....**

*G.R. No. L-20619. July 29, 1968*

Ponente: CONCEPCION, C.J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/257331c20332/>

---

**CONCEPCION, C.J.:**

Original petition for mandamus, to compel respondent Judges Higinio B. Macadaeg and Jose Moya - who now presides the Court formerly presided over by Judge Macadaeg - to give due course to the appeal taken by petitioners herein - the Re-parations Commission and its members[1] - as respondents in Civil Case No. 42668 of the Court of First Instance of Manila, hereinafter referred to as the CFI.

On August 12, 1958, the Reparations Commission approved a resolution awarding to the Liberation Steamship Co. - herein? after referred to as Liberation - "two (2) additional units of cargo vessels of 11, 000 dead weight ton each at an estimated price of \$7,900,000". Alleging that the Commission and its members - hereinafter referred to collectively as petitioners - had neglected their "bounden duty to finally consummate" the aforementioned reso-lution, on February 29, 1960, Liberation filed with the CFI a peti-tion for mandamus - docketed as Civil Case No. 42668 of said court - to compel herein petitioners "to implement" said resolu-tion by "allocating in an award properly implemented the two (2) additional cargo vessels in the third yearly or the next immediately available schedule of reparations awards, " as well as to recover damages. Their motion to dismiss said petition having been denied, petitioners herein filed their answer contesting Liberation's alleged right to the relief prayed for. Subsequently, both parties submit-ted an agreed statement of facts and compromise agreement, dated October 13, 1960, reading:

"COME NOW the parties in the above-entitled case, thru their respective counsel and to this Ho-norable Court respectfully stipulated and agree to submit this case for decision upon the following facts agreed upon to be true and correct:

"1. That the petitioner is a corporation duly or-ganized by native-born Filipino citizens under and by virtue of the laws of the Philippines, for the pur-pose of engaging in shipping business and to help in the promotion of the country's economic rehabilitation;

"2. That the respondent Reparations Commis-sion is a Commission created by law, Republic Act No. 1789, and the other respondents are the duly ap-pointed, qualified and incumbent Chairman and Com-missioners of the said Commission;

"3. That the exercise by the respondent Repara-tions Commission of its powers and prerogatives to administer the acquisitions utilization and distribu-tion of reparations goods and/or services is subject to the Reparations Agreement, the Reparations Law, and the Rules and Regulations promulgated pursuant thereto;

"4. That in the smatter of the supply of services and products by the Japanese Government by way of

reparations, subject "services and products shall be those requested by the Republic of the Philippines and agreed upon between the two governments" pursuant to Article 3 of the Reparations Agreement;

"5. That the respondent Reparations Commission taking cognizance of representations made by the petitioner, that the latter be assured of at least three ocean-going vessels as per its original application to be constructed within the next coming five years, in order to permit it to plan for definite financing commitments and to make agency contracts abroad, awarded two (2) additional units of cargo vessels of 11,000 deadweight ton each at an estimated-price of \$7,900,000 by virtue of a resolution adopted and approved by it on August 12, 1958;

"6. That under the aforesaid resolution, it was also "RESOLVED, FURTHER, that the Chief, Philippine Reparations Mission be, as he is hereby requested to transmit to the GAIMUSHO the necessary amendment covering these additional awards; and he is further authorized to make adjustments in the 3rd year schedule as per attached amendments";

"7. That pursuant to said Resolution of August 12, 1958, the Reparations Mission transmitted to the GAIMUSHO on August 18, 1958, an amendatory schedule to the 3rd year schedule containing the award of two (2) additional vessels to the petitioner, but when the 3rd year reparations schedule was returned to the respondent Reparations Commission by the GAIMUSHO, only one vessel was awarded to the petitioner, and the two additional units awarded to it were not approved by the GAIMUSHO;

"8. That thereafter, the petitioner repeatedly requested the respondent Reparations Commission for the inclusion of the two additional vessels awarded to it in the subsequent 5th year reparations schedule, but the respondent could not grant said requests in view of unavailability of funds for the purpose as well as the limitations contained in the economic pattern established by the National Economic Council which did not permit the same;

"9. That any reparations schedule prepared by the respondent Reparations Commission, in order to be valid and effective, must be approved by the National Economic Council, then by the President and finally by the GAIMUSHO, representing the Japanese Government;

"10. That the matter of inclusion of a particular award or allocation in any given reparations schedule is governed by Several factors, among which are, the economic priorities established by the National Economic Council, the conditions set forth by the law itself including the availability of funds for the purpose;

"11. That the herein petitioner is not the only applicant for overseas vessels; that the approved allocation for one (1) vessel in favor of the petitioner, as well as those in favor of other applicants, all come under one schedule, that is, the approved 3rd year schedule which was carried over to the 4th Reparations Year;

"12. That with reference to ocean-going vessels, there was no new and additional allocation under the 4th Reparations Year for the reason that the 4th year schedule merely carried over those approved under the 3rd year schedule;

"13. That petitioner is willing that the two (2) additional vessels awarded to it by respondent Reparations Commission be included in whole or in part at the next available yearly schedule and the respondents agree to consider this willingness of the petitioner in the drafting of the next available reparations schedule subject to the conditions enumerated in paragraph 10 hereof.

"WHEREFORE, it is most respectfully prayed that a decision be rendered based on the foregoing agreed statement of facts and approving this compromise without pronouncement as to costs. "

On November 10, 1960, the CFI rendered judgment "approving" this agreement and "enjoining the parties to comply strictly" with "the terms and conditions" thereof, "without pronouncement as to costs. " Over a year later, or on November 21, 1961, the Company filed a motion praying "that an order of execution of the above judgment be issued awarding" to the movant "the two (2) vessels" referred to in the agreement. Despite petitioners'

opposition to said motion, on December 20, 1961, the CFI, then presided over by Honorable Higinio B. Macadaeg, Judge, ordered that "a writ of execution issue to the x x x Reparations Commission" and the Reparations "commissioners to include" said Company "as the awardee of the first two (2) ocean-going vessels in this year's reparations schedule. "

Accordingly, on December 22, 1961, a writ of execution, commanding the Sheriff of Manila "to cause the x x x Reparations Commission" and the Reparations "Commissioners to comply" with paragraph 13 of the compromise agreement, "by including the x x x Liberation Steamship Co. as the awardee of the first two (2) ocean-going vessels in this year's reparations schedule, within ten (10) days from the date of receipt hereof, " was issued.

A reconsideration of said order of December 20, 1961, and a motion to quash said writ of execution having been denied, petitioners herein perfected their appeal, by seasonably filing their notice of appeal, appeal bond and record on appeal; but, the ap-peal was, on motion of Liberation, dismissed by Judge Macadaeg, on March 30, 1962, upon the ground that, being based upon a compromise agreement, the judgment rendered on November 10, 1960, became final and executory upon its rendition, and that an appeal would violate said agreement, the purpose of which is to settle the issue between the parties. Notice of the order to this effect was received by the petitioners on April 10, 1962.

Thereupon, or on April 25, 1962, petitioners herein filed, in the Court of Appeals, a petition for mandamus, which was docketed as CA-G.R. No. 30796-R, to compel the CFI to give due course to said appeal. In a resolution of the Court of Appeals date October 26, 1962, this petition was, however, "dismissed without prejudice to filing the same in the appropriate court, " upon the ground of lack of jurisdiction, because the issues involved in the appeal are "all questions of law" and the value of the controversy exceeds P200,000. Soon thereafter, petitioners commenced the present action, for the same purpose, in the Supreme Court, which forthwith issued a writ of preliminary injunction restraining and enjoining the Sheriff of Manila from proceeding with the enforcement of the aforementioned writ of execution.

Respondents maintain that the "right of petitioners herein to file the instant petition for mandamus x x x has already prescribed, inasmuch as this action was begun on December 11, 1962, whereas the order of the CFI dismissing petitioners' appeal was received by them over eight (8) months prior thereto.

Cortes v. Court of First Instance of Capiz[2] cited by res-pondents in support of their contention, is not in point. In that case no action was taken by the petitioners therein until over four (4) months after notice of the last order denying their appeal. In the present case, petitioners did act within fifteen (15) days after notice of said order - by filing the petition for mandamus in CA-G. R. No. 30796-R of the Court of Appeals. The delay in the commencement of the case at bar in the Supreme Court was due to the fact that the Court of Appeals did not dismiss the case before it until October 26, 1962, notice of which was received by the petitioners on Octo-ber 29, 1962.

Moreover, the Cortes case involved the application of section 499 of Act 190, pursuant to which a petition for mandamus for the approval of a record on appeal should be filed "at the next term of the Supreme Court." The pertinent provision is now section 15 of Rule 41 of the Revised Rules of Court,[3] which fixes no period for the filing of said petition. Hence, the time therefor must be deemed "variable as the ends of justice may demand," in the language of Mr. Justice Reyes (J. B. L.), speaking for this Court in Centenera v. Yatco.[4] In other words, the petition should be filed within a reasonable time.

Under the facts of the present case, we find that the petition therein has been filed within such time. Indeed, referring to a de-lay of four (4) months, in the Centenera case, we held:

x x x the constant policy of the courts is not to deny the writ if the result would be to deprive a party of his

substantial right and leave him without remedy (14 C.J.S. 190). A delay of four months in the pursuit of his remedy of mandamus is not so long or unreasonable as to nullify petitioner's right to appeal and leave him without any relief against the decision of the trial court which may after all be erroneous and reversible, especially as the lower court is already poised to execute said judgment and compel petitioner to remove his house of strong materials from the premises in question, which execution could cause petitioner great damage and prejudice." [5] (Underscoring supplied)

Incidentally, this view must be deemed to have superseded that expressed in the Cortes case, insofar as the latter is inconsistent therewith.

Was the CFI justified in refusing to give due course to petitioners' appeal?

The record on appeal attached to the petition herein shows that on December 27, 1961, petitioners moved for a reconsideration of the order of December 20, 1961 (granting the motion for execution filed by the Company) and to quash the writ of execution issued pursuant thereto; that this motion was denied on January 10, 1962; and that on January 19, 1962, petitioners filed their notice of appeal, appeal bond and record on appeal. In other words, petitioners' appeal was perfected within the reglementary period therefor.

This notwithstanding, the CFI dismissed the appeal upon the ground that, having been rendered upon a compromise agreement between the parties, its decision dated November 10, 1960, "had already become final and executory." Petitioners sought to appeal, however, not from said decision, but, from the order of December 20, 1961, purporting to execute said decision in a manner which, petitioners claim, is not in accordance therewith. It is true, Judge Macadaeg opined otherwise, but, it is no less true that petitioners are entitled, not only to disagree with his view, but, also, to bring the issue, on appeal, to a higher court.

The CFI might have had some semblance of justification in dismissing the appeal if its order of December 20, 1961, and the writ of execution issued pursuant thereto had, at least, purported to adhere to the tenor of the decision of November 10, 1960. Said order, however, directs petitioners herein "to include" the Company "as the awardee of the first two (2) ocean-going vessels" in the "reparations schedule" for the year 1961. Similarly, the writ of execution commands the Sheriff of Manila "to cause" the petitioners herein to comply with the aforementioned decision "by including the x x x Liberation x x as the awardee of the first two ocean-going vessels" in the reparations schedule for the year 1961. This writ and said order manifestly depart from the letter and the spirit of the decision they purport to enforce.

Paragraph 13 of the compromise agreement, incorporated into said decision, merely states that Liberation "is willing that the two (2) additional vessels awarded to it" by petitioners be included, in whole or in part, "in the next available yearly schedule", and, that petitioners herein have agreed "to consider this willingness" of Liberation "in the drafting of the next available reparations schedule." The obligation thus assumed by the petitioners is not "to include" Liberation in the reparations schedule for 1961, but merely "to consider" its willingness to be included in the "next available yearly schedule," in connection with the drafting thereof.

Moreover, the commitment of petitioners herein "to consider" Liberation's aforementioned willingness, was explicitly made subject to the conditions set forth in paragraph 10 the compromise agreement, which provides:

"x x x that the matter of inclusion of a particular award or allocation in any given reparations schedule is covered by several factors, among which are the economic priorities established by the National Economic Council, the conditions set forth by law itself including the availability of funds for the purpose."

This paragraph should, in turn, be correlated with paragraph 9 of said agreement, stipulating:

" x x x that any reparations schedule prepared by the Reparations Commission in order to be valid and

effective must be approved by the National Economic Council, then by the President and finally by the Gaimusho representing the Japanese Government."

Neither should we overlook the other provisions of the compromise agreement, particularly those stipulating that Liberation "is not the only applicant for overseas vessels;" that "the approved allocation for one (1) vessel" in favor of Liberation, "as well as those of other applicants, all come under one schedule x x the approved 3rd year schedule which was carried over to the 4th Reparations Year"[6]; that, "with reference to ocean-going vessels, there was no new and additional allocation under the 4th Reparations Year, for the reason that the 4th year schedule merely carried over those approved under the 3rd year schedule x x "[7]; that, despite repeated requests by Liberation "for the inclusion of the two (2) additional vessels awarded to it in the subsequent 5th year reparation schedule," petitioners herein "could not grant requests in view of unavailability of funds for the purpose as well as the limitations contained in the economic pattern established by the National Economic Council which did not permit the same"[8]; and that "the two additional units awarded" to Liberation "were not approved by GAIMUSHO,"[9] the representative of the Japanese Government, whose concurrence is essential to the validity and effectivity of "any reparations schedule."

By virtue of these stipulations, Liberation has, in effect, admitted that the non-inclusion, up to the 5th year reparations schedule, of the two (2) additional ocean-going vessels awarded thereto, was due, not to petitioners' neglect or refusal to implement the award, but to several factors beyond their control; that, because of these factors, the petitioners are neither free to act in the matter of inclusion of awardees in the reparations schedules, nor in a position to state, in advance, either the specific circumstances under which the inclusion could be effected, or the particular time at which or the schedule in which the inclusion could or would be made; and that, accordingly, Liberation had agreed to depend upon the sense of duty and justice, as well as to rely upon the sound judgment and discretion of the petitioners herein, in the determination of the conditions under which the implementation of said award would be viable or feasible, taking into account that there were previous awards still to be met, apart from the "economic priorities, established by the National Economic Council" and a number of other "factors" governing "the matter of inclusion of a particular award or allocation in any given reparations schedule."

In short, petitioners herein could not have bound them-selves, and Liberation could not have understood them as assuming the obligation to include said company in the 1961 reparations schedule. Otherwise, both parties would have explicitly named said year, in their compromise agreement. Upon the other hand, the exercise of the aforementioned judgment and discretion by petitioners herein cannot be controlled by writ of execution. Hence, the order of December 20, 1961 and the writ of execution issued on December 22, 1961, are not in accordance with the decision of November 10, 1960.

For this reason, it is alleged in the petition herein that, in issuing said writ, the CFI had exceeded its jurisdiction. In view of this, and of petitioners' allegations to the effect that said CFI had gravely abused its discretion and that they have "no other plain, speedy and adequate remedy in the ordinary course of law," and considering that, if the CFI were required to give due course to petitioners' appeal, we would unduly delay the determination of the merits of the issue between the parties - which, at any rate, has been amply discussed by them in the CFI, as well as in the Court of Appeals, and in this Court - said petition may and should be, as it is hereby treated as one for certiorari.[10]

WHEREFORE, said order and writ issued, respectively, on December 20 and 22, 1961, are declared null and void, ab initio, and the writ of preliminary injunction issued by this Court hereby made permanent, with costs against respondent, Liberation Steamship Company.

**IT IS SO ORDERED.**

Reyes, JBL, Dizon, Makalintal, Sanchez, Ruiz Castro, and Angeles, JJ., concur.

Zaldivar, J., took no part.

Fernando, J., did not take part.

---

[1] Benedicto Padilla, Juan M. Alberto, Gregorio C. Abad, Calixto O. Zaldivar, and Herminigildo Atienza.

[2] 52 Phil. 214.

[3] SEC. 15. Mandamus.- When erroneously a motion to dismiss an appeal is granted or a record on appeal is disallowed by the trial court, a proper petition for mandamus may be filed in the appellate court.

**[4] 57 O.G. 4923, 4925.**

**[5] 57 O.G. 4923, 4925-4926.**

[6] Paragraph 11, Compromise Agreement.

[7] Paragraph 12, Compromise Agreement.

[8] Paragraph 8, Compromise Agreement.

[9] Paragraph 7, Compromise Agreement.

[10] Candelario v. Cañizares, L-17688, March 30, 1962; Gambol v. Barcelona, L114339, September 30, 1959; Tarnbunting v. S. Jose, 97 Phil. 491.

**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.