

TROPICAL BUILDING SPECIALTIES, INC., PLAINTIFF-APPELLEE, VS. JAIME NUEVAS, DEFENDANT-APPELLANT.*G.R. No. L-26968. January 31, 1969*

Ponente: CONCEPCION, C.J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/4376bcc6f111/>**CONCEPCION, C.J.:**

Defendant Jaime Nuevas seeks the reversal of an order of the Court of First Instance of Manila dismissing his appeal from a decision of the Municipal Court of Manila, in Civil Case No. 133148 thereof, sentencing him to pay to plaintiff, Tropical Building Specialties, Inc., the sum of P3,815.63, with interest thereon, at the rate of 12% per annum, from May, 1964 until fully paid, in addition to the sum of P500, as and for attorney's fees, apart from the costs.

The record shows that plaintiff seeks to recover the price of materials allegedly delivered to the defendant from 1961 to 1964. Although admitting the deliveries made up to June 23, 1961, without specifying the goods delivered or its value, defendant alleged, in his answer, that he has "no knowledge or information sufficient to form a belief as to the truth of the averment x x x relating to deliveries made in 1962, 1963 and 1964." As a member of the Bar, defendant knew that, if said information was necessary for his defense, he could have gotten it by applying for a bill of particulars, but he did not ask for one. In fact, since plaintiff had introduced its evidence in the municipal court, defendant needed no such particulars in the Court of First Instance. Moreover, in his answer, defendant merely averred that "he had a subsequent agreement with plaintiff that he would liquidate his account, if any there be, by partial payments." The total absence of defense on defendant's part is attested to by the judgment of the municipal court granting the relief prayed for in plaintiff's complaint, except as to attorney's fees, which, in the exercise of the court's discretion, was reduced from P950 to P500.

Defendant having appealed from this judgment, the record was forwarded to the Court of First Instance, which caused the case to be set for pre-trial on October 20, 1965. On motion of the defendant, this proceeding and the hearing of the case were postponed first to December 1, 1965, then to January 13, 1966, thereafter to February 16, and still later to March 15, upon the ground that he was "making efforts at an amicable settlement." What transpired on March 15, 1966 is set forth in an order of the same date, reading:

"Upon petition of counsel for the defendant for the postponement of the hearing of this case for the last time, and against the objection on the part of counsel for the plaintiff, let the hearing of this case be postponed for the last time to April 21, 1966 at 8:30 a.m., a date selected by the parties. It is understood that no further postponement will be countenanced by the court.

"The parties were notified of this order in open court."

Despite the warning contained in this order, defendant did not show up on scheduled time, in view of which the lower court authorized plaintiff, in an order dated April 21, 1966, to present its evidence ex parte. On motion of the defendant, over plaintiff's objection, the Court, acting under the belief that the former was still "trying to settle" the case amicably, reconsidered said order of April 21, 1966 and set the case for hearing on July 7, 1966.

Again, however, the defendant filed, on July 6, 1966, an unverified petition to transfer the hearing to another date, preferably in the latter part of August, upon the ground that he had, on July 7, 1966, a hearing in Civil Case No. N-428 of the Court of First Instance of Cavite, "which hearing was first set."

On July 7, 1966, the lower court issued the appealed order, from which we quote:

"When this case was called for hearing this morning counsel for the defendant was absent. How-ever, there is attached to the record an urgent peti-tion of said counsel to transfer the hearing to ano-ther date. In view of the strong opposition of coun-sel for the plaintiff on the ground that the promise contained in the petition to settle his case out of court was also made by counsel for the defendant when this case was still in the City Court but that he has not done anything to comply with it, thus creating doubt as to the sincerity of said counsel, the petition is hereby denied, and on motion of coun-sel for the plaintiff, the appeal is dismissed.

"Let this case be remanded to the court of ori-gin for execution of the judgment."

Considering that, the hearing of this case in the Court of First Instance had been postponed five (5) times, on motion of the defendant; that the order of March 15, postponing the hearing to April 21, explicitly stated that it was the "last," and that "no further postponement" would "be countenanced by the Court"; that, despite defendant's failure to appear, in due time, on April 21, said Court granted him, on May 31, another opportunity to be heard on July 7; that, although defendant claims that the hearing of his case in Cavite had been set "first," or before May 31, 1966, he had ample time to make representations to this effect, in the Court of First Instance of Manila, before July, 1966, but did not do so until July 6, 1966, or on the eve of the hearing of the present case; that the defendant succeeded in securing several postpone-ments by giving the impression that he was trying to settle the case amicably, which he never did; that the record suggests that he has no valid defense and that the present appeal is purely dilatory in nature; that postponements of hearings are matters primarily addressed to the discretion of the Court,[1] the exercise of which should not be interfered with on appeal,[2] in the absence of a ma-nifest abuse of discretion;[3] and that no such abuse exists in the case at bar, it is obvious that the order appealed from must be sustained.

WHEREFORE, said order is hereby affirmed, with costs against defendant-appellant, Jaime Nuevas.

IT IS SO ORDERED.

Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Sanchez, Castro, Fernando, Capistrano, Teehankee, and Barredo, JJ., concur.

[1] Lichauco v. Lim, 6 Phil. 271; Go Changjo v. Roldan Sy-Changjo, 18 Phil. 405; Lino Luna v. Arcenas, 34 Phil. 80; Rivera v. Ong Che, 37 Phil. 355; Fabillo v. Tiongko, et al., 43 Phil. 317; Philippine Guaranty Co. V. Belando, 53 Phil. 410; Corp. de PP. Agustinos v. Del Rey, 55 Phil. 163; Linis V. Roe vira, 61 Phil. 137; Sarreal v. Tan, et al., 92 Phil. 689; Edaño v. Cea, L-6821, May 10, 1954; Bautista v. Municipal Council of Mandaluyong, Rizal, 98 Phil. 409.

[2] Samson v. Naval, 41 Phil. 838.

[3] Panti v. Provincial Board, 106 Phil. 1093, National Lumber & Hardware, Co. v. Velasco, 106 Phil. 1098.

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.