

PHILIPPINE NATIONAL BANK, PETITIONER, VS. HON. PASTOR A. DE CASTRO, PRESIDING JUDGE, REGIONAL TRIAL COURT, BRANCH 43, ROXAS, ORIENTAL MINDORO, STA. MONICA ICE PLANT AND COLD STO...

CA-G.R. SP No. 107777, July 23, 2010

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/49e346a1f070/>

Court of Appeals

The Case

In a Petition for Certiorari[1] filed under Rule 65 of the Rules of Court, petitioner Philippine National Bank ("PNB") assails the:

(1) Order[2] dated August 19, 2005 of the Regional Trial Court of Oriental Mindoro[3] ("RTC") in Civil Case No. C-473 entitled "Sta. Monica Ice Plant and Cold Storage, Inc. and Sps. Roberto Enriquez and Perpetua C. Enriquez, Plaintiffs, versus Philippine National Bank, Rex G. Sayson, Jenn Industrial & Construction Corporation, Jessie Pastor and Ex-Officio Sheriff, RTC, Roxas, Oriental Mindoro, Defendants," the pertinent portion of which reads:

"When this case was called for pre-trial, it appears that both the defendants are again not attendant in court. The records will show that since the pre-trial conference of this case was set on August 20, 2004 and reset for several times, the same did not materialize because of the absence of the defendants and it is now the sixth (6th) time and as a matter of fact, there was a previous order of this court declaring them as in default but to give them another chance the court reconsidered its order but today, they again failed to appear for which reason Atty. Joaquin moved that they be declared in default permanently. Considering that they have filed their answers, the court will not declare them in default but only as in default and the court is allowing the plaintiffs to present its evidence ex parte.

ACCORDINGLY, upon motion of Atty. Joaquin, the Clerk of Court is hereby commissioned to receive the plaintiffs' evidence ex-parte on September 2 and October 7, 2005.

SO ORDERED."[4] , and

(2) Order[5] dated January 15, 2009 denying PNB's September 27, 2005 Motion for Reconsideration.[6]

The Facts

On September 12, 2003, Sta. Monica Ice Plant and Cold Storage, Inc. and Sps. Roberto Enriquez and Perpetua C. Enriquez ("Sta. Monica Ice Plant, et. al.") filed a Complaint for Annulment of Contract with Prayer for Preliminary Injunction and/or Temporary Retraining Order[7] against PNB, Rex G. Sayson, Jenn Industrial & Construction Corporation, Jessie Pastor and Ex-Officio Sheriff, RTC, Roxas, Oriental Mindoro praying for the annulment of a Loan Agreement executed by and between Sta. Monica Ice Plant and PNB and the Real Estate Mortgage which secured the same.

On October 27, 2003, PNB filed its Answer (with Compulsory Counterclaim).[8] Pre-trial conference was set on

August 20, 2004.[9]

On July 19, 2004, PNB filed an Urgent Ex-Parte Motion to Postpone Pre-trial Conference[10] on the ground that its handling lawyer, Atty. Edwin Panganiban, would be "in the United States of America to attend to some personal matters".[11] Pre-trial conference was thereafter re-scheduled to October 1, 2004.[12]

On September 24, 2004, PNB filed its Pre-trial Brief.[13] Sta. Monica, et al. filed their Pre-Trial Brief on September 30, 2004.[14]

Pre-trial conference was consequently scheduled on October 1, 2004. However, the same was reset to November 12, 2004 as the Presiding Judge had to attend a Seminar on Regional Judicial Career Enhancement Program in Manila.[15]

On November 9, 2004, PNB, through its new handling lawyer, Atty. Michael Vernon R. de Gorio, filed a Very Urgent Ex-parte Motion for Transfer (With Formal Entry of Appearance and Change of Address)[16] praying that the scheduled November 12, 2004 pre-trial conference be cancelled on the ground that he had a conflict of schedule with another civil case in the RTC of Lipa City, Batangas. Besides, he was still awaiting for the turn-over of the complete records of the case to him. Granted, the pre-trial conference was re-scheduled to March 18, 2005.

Subsequently, PNB filed an Ex-Parte Motion for Transfer[17] dated February 9, 2005 averring, this time, that the handling lawyer will not be able to attend the March 18, 2005 hearing due to a conflict with a "very important family affair." Sta. Monica Ice Plant, et. al. opposed, this time, said motion.[18]

On the other hand, PNB's co-defendants, Jessie Pastor ("Pastor") and Jen Industrial & Contracting Corporation ("Jen Industrial"), separately filed a Motion for Transfer Date of Pre-trial Conference[19] dated March 11, 2005. They claimed that their counsel, Atty. Icasiano M. dela Rea, was confined and, in fact, was operated in Asian Hospital and Medical Center.

Sta. Monica Ice Plant, et al. filed on March 16, 2005 their Opposition (Re: Motion for Transfer Date of Pre-trial Conference)[20] averring that they "cannot anymore allow another postponement of the pre-trial conference as the same has already pended for almost a year (since May of 2004) and has been reset for three (3) times." [21]

Yet again, PNB filed an Urgent Motion for Postponement of Pre-trial Conference[22] dated March 17, 2005 on the ground that it was physically impossible for Atty. Giron (the assigned lawyer in lieu of Atty. De Gorio) to attend the hearing as trips to Mindoro had been cancelled due to inclement weather conditions.[23]

On March 18, 2005, the case was just the same called for pre-trial conference. However, only plaintiffs Sta. Monica Ice Plant, et. al. and their counsel appeared. The RTC thus issued an Order²⁴ allowing the plaintiffs to present their evidence ex-parte. On April 19, 2005, PNB filed its Motion for Reconsideration.[25]

On May 11, 2005, the RTC granted PNB's motion for reconsideration and set aside its March 18, 2005 Order. As a result, the case was set for pre-trial conference on June 3, 2005.[26]

On May 26, 2005, co-defendants Pastor and Jen Industrial filed another Motion for Postponement.[27] They claimed, this time, that their counsel, Atty. Dela Rea, was still indisposed due to his illness. Claiming that what he had was not an ordinary illness but an open-heart surgery at the Asian Hospital and Medical Center. Granted, the RTC however ruled in its June 3, 2005 Order[28] that:

"ACCORDINGLY, an order is hereby issued directing the defendants to reimburse in equal share the expense incurred by the plaintiff, representing attorney's fees and expenses in coming to this court in the amount of Php8,000.00 with a warning that should the defendant again fail to appear in the next scheduled pre-trial of this

case on August 19, 2005, the court shall allow the plaintiff to present its evidence ex-parte." (emphasis Ours)

In another Motion for Postponement dated August 15, 2005, Atty. Icasiano M. Dela Rea, counsel for defendants Pastor and Jen Industrial, again prayed for another resetting on the ground that he was still indisposed as a result of his open-heart surgery. Attached to said motion was a certification of "heart specialist, Dr. Diomedes A. Talavera".[29]

On August 19, 2005, the RTC issued the herein assailed Order[30] declaring defendants as in default for their failure to appear at the pre-trial and allowing the plaintiffs to present their evidence ex-parte.

Defendants PNB and Rex G. Sayson filed their Motion for Reconsideration[31] dated September 27, 2005 but the same was denied in the herein assailed January 15, 2009 Resolution.[32]

Issues:

The sole issue submitted for Our resolution is the question of:

WHETHER OR NOT THE REGIONAL TRIAL COURT GRAVELY ABUSED ITS DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN ISSUING THE ASSAILED ORDERS DATED AUGUST 19, 2005 AND JANUARY 15, 2009.

Our Ruling

The petition has merit.

Sections 4 and 5, Rule 18 of the Rules of Court, provides:

"SEC. 4. Appearance of parties. — It shall be the duty of the parties and their counsel to appear at the pre-trial. The non-appearance of a party may be excused only if a valid cause is shown therefor or if a representative shall appear in his behalf fully authorized in writing to enter into an amicable settlement, to submit to alternative modes of dispute resolution, and to enter into stipulations or admissions of facts and of documents.

SEC. 5. Effect of failure to appear. — The failure of the plaintiff to appear when so required pursuant to the next preceding section shall be cause for dismissal of the action. The dismissal shall be with prejudice, unless otherwise ordered by the court. A similar failure on the part of the defendant shall be cause to allow the plaintiff to present his evidence ex-parte and the court to render judgment on the basis thereof." (emphasis Ours)

Pre-trial, by definition, is a procedural device intended to clarify and limit the basic issues raised by the parties and to take the trial of cases out of the realm of surprise and maneuvering.[33] It is an answer to the clarion call for the speedy disposition of cases.[34] Although it was discretionary under the 1940 Rules of Court, it was made mandatory under the 1964 Rules and the subsequent amendments in 1997.[35] Hailed as "the most important procedural innovation in Anglo-Saxon justice in the nineteenth century, pre-trial seeks to achieve the following:

- "(a) The possibility of an amicable settlement or of a submission to alternative modes of dispute resolution;
- (b) The simplification of the issues;
- (c) The necessity or desirability of amendments to the pleadings;
- (d) The possibility of obtaining stipulations or admissions of facts and of documents to avoid unnecessary proof;
- (e) The limitation of the number of witnesses;
- (f) The advisability of a preliminary reference of issues to a commissioner;

- (g) The propriety of rendering judgment on the pleadings, or summary judgment, or of dismissing the action should a valid ground therefor be found to exist;
- (h) The advisability or necessity of suspending the proceedings; and
- (i) Such other matters as may aid in the prompt disposition of the action."^[36]

The seeming severity of the rule notwithstanding, it nonetheless is not unyielding. Like all rules of procedure, it admits of exceptions for valid and justifiable reasons.^[37]

Here, there is no question that the pre-trial conference had been re-scheduled several times over a period of more than one year. In fact, from August 20, 2004 to August 19, 2005, six (6) resettings attended the pre-trial hearings. But a careful examination of the records shows that every time a pre-trial hearing was reset, it was for a valid and justifiable reason, viz.:

Date of hearing	Reason for Postponement
-----------------	-------------------------

- 1.) August 20, 2004 - Unavailability of Atty. Edwin Panganiban, petitioner PNB's handling lawyer.
- 2.) October 1, 2004 - The Presiding Judge had to attend a seminar for RTC Judges in Manila.
- 3.) November 12, 2004 - Unavailability of petitioner PNB's new handling lawyer, Atty. Michael Vernon de Gorio, due to conflict of schedule.
- 4.) March 18, 2005 - Unavailability of Atty. Giron (substitute counsel in lieu of Atty. De Gorio) due to inclement weather conditions.
- 5.) June 3, 2005 - Unavailability of Atty. Icasiano dela Rea, counsel for defendants Jessie Pastor and Jen Industrial & Contracting Corporation due to his open-heart surgery.
- 6.) August 19, 2005 - Atty. Dela Rea was still indisposed as he was still recovering from the surgery.

Evidently, PNB was responsible for only two (2) postponements of pre-trial conference, yet the same were grounded on valid and justifiable considerations. So with the four (4) other postponements, two (2) of which were caused by Atty. Dela Rea's (who was not PNB's counsel) open-heart surgery, and the two others: (1) March 18, 2005, due to cancellation of trips to Mindoro on account of inclement weather; and (2) October 1, 2004 as the Presiding Judge himself had to attend a seminar for RTC Judges in Manila.

True, pre-trial rules are not to be belittled because their non-observance may result in prejudice to a party's substantive rights.^[38] Where, however, as in this case, exigencies exist that demand flexibility in their application, it behooved the Court below to relax the rules on pre-trial. Like all rules, they should be followed; unless persuasive reasons demand otherwise, to relieve a litigant of an injustice that is not commensurate with the degree of his thoughtlessness in not complying with the procedure.^[39] Especially if substantial justice can be best

served if both parties are given the full opportunity to litigate their claims in a full blown trial.[40]

WHEREFORE, the petition is GRANTED. Setting aside the assailed Orders dated August 19, 2005 and January 15, 2009 of the Regional Trial Court of Oriental Mindoro, Branch 43, this case is hereby REMANDED to the RTC for further proceedings.

SO ORDERED.

Acosta and Gaerlan,[*] JJ., concur

[*] Acting Junior Member, per Office Order No. 179-10-ABR dated July 7, 2010.

[1] Rollo, pages 2-30.

[2] Ibid., page 34.

[3] Branch 43.

[4] Rollo, page 34.

[5] Ibid., pages 35-50.

[6] Ibid., pages 150-155.

[7] Rollo, pages 51-59.

[8] Ibid, pages 60-74.

[9] Ibid, page 7.

[10] Ibid, pages 78-80.

[11] Ibid, page 78.

[12] Ibid, page 7.

[13] Ibid, pages 81-85.

[14] Ibid, pages 86-93.

[15] Rollo,page8.

[16] Ibid, pages 94-96.

[17] Ibid, pages 97-98.

[18] Ibid, page 106.

[19] Rollo, pages 114-115.

[20] Ibid, pages 101-105.

[21] Ibid, page 103.

[22] Ibid, pages 106-108.

[23] Ibid, page 107.

[24] Ibid, page 116.

[25] Ibid, pages 117-123.

[26] Rollo, page 132.

[27] Ibid, pages 133-135.

[28] Ibid, pages 139-140.

[29] Ibid, pages 141-142.

[30] See Note 2.

[31] See Note 6.

[32] See Note 5.

[33] Anson Trade Center, Inc. et al. vs. Pacific Banking Corporation, G.R No. 179999, March 17, 2009, citing Interlining Corporation v. Philippine Trust Company, 428 Phil 584, 588 (2002) and Permanent Concrete Products, Inc. v. Teodoro, 135 Phil 364, 367 (1968).

[34] Ibid.

[35] Eufemia Balatico Vda. De Agatep vs. Rodriguez, et. al., G.R. No. 170540, October 28, 2009, citing Tiu vs. Middleton, 369 Phil 829 (1999).

[36] Eufemia Balatico Vda. De Agatep vs. Rodriguez, et. al, G.R. No. 170540, October 28, 2009, supra.

[37] Bahia Shipping Services, Inc. vs. Mosquera, 423 SCRA 305, 308 (2004), citing Insular Veneer, Inc. v. Plan, G.R. No. L-40155, 10 September 1976, 73 SCRA 1.

[38] Ramos vs. Spouses Alvendia, et. al., G.R. No. 176706, October 8, 2008, citing Saguid vs. CA, 451 Phil. 825 (2003).

[39] Ibid.

[40] Republic vs. Oleta, G.R. No. 156606, August 17, 2007.

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.