

**YELLOW BALL FREIGHT LINES, INC., PLAINTIFF-APPELLEE, VS.  
BELFAST SURETY & INSURANCE COMPANY, INC.,  
DEFENDANT-APPELLANT.**

*G.R. No. L-30684. December 09, 1982*

Ponente: RELOVA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/4ace136b127f/>

---

**RELOVA, J.:**

Plaintiff-appellee seeks recovery from defendant-appellant the sum of P5,401.00 representing damages and costs of repairs of its motor vehicle, bearing Plate No. TH-242, insured by the defendant under Policy No. BS-CV-1166, alleging that the insured vehicle figured in an accident which occurred in San Fernando, Pampanga on May 26, 1965.

As a second cause of action, plaintiff alleged that on June 2, 1965, defendant cancelled the contract of insurance which covered the vehicle which figured in the accident of May 26, 1965 and other vehicles of the plaintiff; that upon receipt of the notice of cancellation, plaintiff demanded from the defendant a refund of the premiums paid in advance corresponding to the unexpired period amounting to P3,823.02; and that despite repeated demands upon the defendant, the latter failed and refused to refund said premiums.

As a third cause of action, plaintiff alleged that defendant issued a performance bond in the sum of P10,000.00 on behalf of Poblete Freight Service to guarantee its performance to deliver to various warehouses in Manila and suburban towns, RCA rice from the piers, South Harbor, Manila, which plaintiff as a contractor has undertaken to perform; that plaintiff accepted the Poblete Freight Service, as sub-contractor, to perform its obligation under plaintiff's contract of haulage on the strength of the performance bond issued by the defendant on behalf of Poblete Freight Service to guarantee faithful performance of its hauling and delivery of RCA rice; that the Poblete Freight Service lost a truck load of RCA rice valued at P8,656.00 entrusted into its custody for delivery pursuant to the contract of haulage by the plaintiff; and that demands were made upon the defendant to reimburse the value of the lost rice but said defendant failed and refused to pay.

The complaint was filed on September 9, 1965 and summons was served upon the defendant on September 25, 1965.

On September 30, 1965, Atty. Loreto M. Guevarra, an employee of the defendant, resigned without filing an answer. On October 15, 1965, defendant designated its then Corporate Secretary, Atty. Mauro T. Allarde, to take over the duties of its former counsel, Atty. Guevarra.

Considering that service of summons and a copy of the complaint were served upon the defendant on September 25, 1965, defendant should have filed its answer on or before October 10, 1965. Defendant did not file its answer nor moved for extension of time within which to file the same. Thus, when Atty. Allarde was named counsel to handle the case, the period for filing the answer had already expired.

On October 16, 1965, the defendant was declared in default and reception of plaintiff's evidence was scheduled on

October 20, 1965.

On October 23, 1965, Atty. Allarde sent his clerk to the court to check the exact date when the summons was served upon the defendant. It was then discovered that summons was served on September 25 and that on October 16 the defendant was declared in default and that plaintiff had already presented its evidence.

On October 27, 1965, the defendant filed its motion to set aside the order of default. This was followed by another motion filed on November 12, 1965 praying for a new trial which, however, was denied.

On February 2, 1966, defendant appealed from the decision of the trial court, dated October 23, 1965, ordering the defendant to pay the plaintiff the amounts prayed for in the complaint, with the exception of exemplary damages; as well as from the order denying the motion for a new trial.

In its appeal to the Court of Appeals, defendant alleged that the lower court erred (1) in denying the motion for new trial and, in effect, also the motion to set aside the order of default; and, (2) in rendering judgment for all the sums claimed in the complaint, with the exception of exemplary damages.

Defendant contends that its failure to file the answer within the reglementary period is due to excusable negligence; that while it is true that when its former counsel, Atty. Loreto Guevarra, resigned on September 30, 1965 it still had ten (10) days within which to file the answer, it was only on October 15, 1965 when Mr. Rimaludo Enerio, Assistant Manager of the defendant corporation, turned over to the new counsel, Atty. Allarde, all the cases of the defendant still pending in court; that the delay was "due to the pressure of his (Atty. Allarde) duties and he did not realize the need of the immediate action on any of the cases;" that notwithstanding the transfer of the cases to the care of Atty. Allarde on October 15, 1965, the latter "finally came to the folder of this case only on October 22, 1965 because prior to that time he had to work over and take action on about 40 of the 60 cases turned over to him;" and that it was only then that Atty. Allarde noticed that no answer to the complaint has yet been filed. Further, appellant alleged that the copy of the summons served on the defendant did not state the date when the service was made so Atty. Allarde had to send his clerk to verify the date of the service from the records of the court itself. This took place on October 23, 1965 and it was only then that Atty. Allarde learned that the defendant had already been declared in default; that the plaintiff had already presented its evidence ex-parte on October 20, 1965 and that a decision had been rendered on the merits.

The Court of Appeals, in a resolution, dated June 16, 1969, ordered the transmittal of the records of this case to this Court because "this case does not involve any question of fact but merely purely questions of law."

Considering the sequence of events which followed after summons had been served upon defendant-appellant, particularly the action taken by defendant-appellant's counsel, Atty. Allarde, in immediately filing a motion to set aside the order of default on October 27, 1965, We hold that appellant should be granted relief, if only to stress emphatically that the rule of procedure may not be misused or abused as instrument for the denial of substantial justice. It will be observed that defendant-appellant's new counsel exercised more than ordinary diligence in attending to the cases which were turned over to him. It cannot be said that there was manifest intention on his part to delay the trial of the case. The error or inadvertence, if any, was on the part of appellant's employee, Mr. Enerio, who possibly did not know what the consequence would be if immediate action is not taken on the cases left by the former counsel, Atty. Guevarra. At any rate, judgments by default are not looked upon with favor for they are made without contest from the defendant. Litigants should be given every opportunity to fight their cases in court, fairly and in the open, so that where a defendant can give a credible explanation for his failure to file the answer within the reglementary period, the court should not hesitate to lift an order of default or vacate the judgment already rendered thereon. "While a petition for relief as a rule is addressed to the sound discretion of the court, however, when it appears that a party has a good and meritorious defense and it would be unjust and unfair

to deny him his day in court, equity demands that the exercise of judicial discretion be reconsidered if there are good reasons that warrant it (Tecson vs. Tecson, 49 O.G. 4308)."

WHEREFORE, the judgment of the lower court, dated October 23, 1965, is hereby SET ASIDE and a new trial is ordered, giving the defendant an opportunity to file its answer to the complaint. Without costs.

**SO ORDERED.**

Melencio-Herrera, Plana, Vasquez, and Gutierrez, Jr., JJ., concur.  
Teehankee, Acting C.J., reserved his vote.

**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.