

NATIONAL ELECTRIFICATION ADMINISTRATION, REPRESENTED BY ITS ADMINISTRATOR RIZALINO LOPEZ (NOW PEDRO G. DUMOL), PETITIONER, VS. HON. COURT OF APPEALS (SPECIAL 8TH DIVISION), HON....

G.R. No. L-32490. December 29, 1983

Ponente: MELENCIO-HERRERA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/6b1c506c583a/>

MELENCIO-HERRERA, J.:

This is a Petition for Certiorari under Republic Act No. 5440 (as amended by RA No. 6038), in relation to Rule 45 of the Rules of Court, to review the Decision promulgated by respondent Court of Appeals, dated August 17, 1970, in CA-G.R. No. 45376-R, entitled "National Electrification Administration versus Hon. Eloy B. Bello, et al." denying the petition in said case, and dissolving the Writ of Preliminary Injunction issued in connection therewith on June 3, 1970.

The undisputed facts follow: On June 14, 1965, respondents Rural Power Corporation, Eusebio E. Ferrer, Lourdes Sison, and Eduardo Ferrer (hereinafter referred to as Rural Power) executed a Real Estate Mortgage in favor of petitioner National Electrification Administration (NEA) in the sum of P985,000.00 for the purpose of improving the former's services to the public. On the same date, Rural Power was required to execute two other real estate mortgages to secure two other loans for the amounts of P98,000.00 and P81,000.00, but said amounts were never released. Of the three deeds of mortgages, only the first in the amount of P985,000.00 has been the object of implementation.

The mortgage deed provided for a "program of work" divided into Phases A, B and C and pursuant thereto P68,000.00 was released on July 8, 1965, P247,000.00 on September 19, 1965, and P125,000.00 on January 16, 1966, with deductions for expenses, interests, and insurance. Among the conditions of the mortgage were that the amount to be released to Rural Power would be utilized for the "purposes therein specified subject to availability of funds", and "that the respondents shall adhere strictly with the program of work and specifications attached to the deed".

Due to alleged violations of the above-stated conditions, petitioner instituted extrajudicial foreclosure proceedings on May 11, 1969 pursuant to the deed of real estate mortgage for the amount of P985,000.00. On May 11, 1969 the Sheriff of Alaminos, Pangasinan set the sale of the properties involved for public auction.

On April 24, 1969, Rural Power initiated Civil Case No. 14742 before the then Court of First Instance of Pangasinan for Injunction, release of a sum of money, cancellation of mortgages, and damages. Respondent Trial Judge, Eloy B. Bello, issued a Writ of Preliminary Injunction stopping the auction sale and subsequently decided in favor of Rural Power after trial on the merits (Annex "G").

On December 23, 1969, petitioner corporation filed its notice of appeal and appeal bond.

On January 3, 1970, petitioner filed its Record on Appeal. However, this was disapproved by respondent Judge in

an Order issued on January 14, 1970 for alleged non-compliance with Section 6 Rule 41 of the Rules of Court and directed petitioner to comply therewith and file an Amended Record on Appeal.

The Order in question, is quoted hereunder as follows:

"The record on appeal filed by the defendants was submitted to this court for its approval on January 8, 1970. Section 6, Rule 41 of the Revised Rules of Court referring to the form and contents of the record on appeal provides in part as follows:

'If an issue of fact is to be raised on appeal, the record on appeal shall include by reference all the evidence, oral and documentary, taken upon the issue involved. The reference shall specify the documentary evidence by the exhibit numbers or letters by which it was identified when admitted or offered at the hearing, and the oral evidence by the names of the corresponding witnesses. If the whole oral and documentary evidence in the case is to be included, a statement to that effect will be sufficient without mentioning the names of the witnesses or the numbers or letters of exhibits.'

Going over the record on appeal this Court does not find any compliance with the above-mentioned portion of Section 6, Rule 41 of the Revised Rules of Court.

WHEREFORE, the defendants-appellants are hereby ordered to submit an amended record on appeal wherein the requirements above-mentioned appear". (Annex "G")

On February 13, 1970, petitioner filed an Amended Record on Appeal supplying the deficiencies with the prayer that "all oral and documentary evidence presented in the instant case be elevated together with all the records to the Court of Appeals". Again, respondent Judge disapproved the Amended Record on Appeal for alleged non-compliance with Section 6 of Rule 41 of the Revised Rules of Court in an Order, dated March 4, 1970, reading in full as follows:

"In the order of this Court, dated January 14, 1970, this Court quoted Section 6, Rule 41, Revised Rules of Court, declaring that the record on appeal does not comply with the said Section 6, Rule 41, of the Revised Rules of Court. Going over the amended record on appeal, this Court still does not find compliance with the provision of Section 6, Rule 41, of the Revised Rules of Court.

"WHEREFORE, this Court hereby disapproves the amended record on appeal.

"SO ORDERED." (Annex "C")

Petitioner corporation did not file a Motion for Reconsideration of the Order of March 4, 1970.

On May 27, 1970, petitioner instituted a Petition for Certiorari and Mandamus with Preliminary Injunction before respondent Court of Appeals. However, the Appellate Court ruled that the failure of petitioner to ask respondent Judge to reconsider his Order of March 4, 1970 before resorting to the remedies of Certiorari and Mandamus with preliminary injunction was "fatal" to petitioner's position (Annex "B").

Hence, this petition.

The primordial issue is whether or not respondent Appellate Court gravely abused its discretion in holding that petitioner's omission to move for reconsideration before the Trial Court prior to filing a petition for certiorari and mandamus was fatal to the petition. This issue would, in turn, hinge on the question of whether or not respondent Trial Judge committed grave abuse of discretion in disapproving petitioner's Record on Appeal and the subsequent Amended Record on Appeal.

We hold in the affirmative for the following reasons:

First of all, respondent Trial Judge's Order of January 14, 1970 as well as that of March 4, 1970 disapproving petitioner's original and amended Record on Appeal, respectively, for alleged non-compliance with Section 6 of Rule 41 were both vague because they did not specify the requirements not complied with nor the errors or additions that had to be corrected or added. As the Appellate Court had observed "it is possible that the respondent (Judge) was referring to deficiencies other than that specified in (the) order of January 14, 1970".[1] Hence, petitioner cannot be faulted if its Amended Record on Appeal did not meet the standards set by the Trial Judge as there weren't any.

Secondly, whatever defects the original Record on Appeal may have contained had been cured in the Amended Record on Appeal by petitioner's prayer that all the documentary and oral evidence be elevated to the Appellate Court as expressly provided for by Section 6, Rule 41 of the Revised Rules of Court. Therefore, respondent Judge's disputed Order of March 4, 1970 (Annex "C") again disapproving the Amended Record on Appeal on the same ground of alleged non-compliance with Section 6, Rule 41 was arbitrary and constituted grave abuse of discretion amounting to lack of jurisdiction. In the eyes of the law, the two disputed Orders were patent nullities, thus excepting the instant case from the general rule that before Certiorari or Mandamus may be availed of petitioner must first file a Motion for Reconsideration.[2] In other words, respondent Judge, in effect, deprived petitioner of its right to appeal and any other plain, speedy and adequate remedy in the ordinary course of law, hence, making petitioner's resort to the instant petition a virtual necessity. As was held in *People v. Palacio*, 108 Phil. 220, 223 (1960), a Motion for Reconsideration may be dispensed with if under the circumstances, such as in the case at bar, it would have been useless.

Third, petitioner is a government corporation performing governmental functions pursuant to Republic Act No. 2717, as amended. Public interest being involved, a Motion for Reconsideration need not be availed of.[3]

Fourth, petitioner averred that time was of the essence because respondents were in the process of executing the assailed judgment of the Trial Court with precipitate haste, the enforcement of which would have impaired petitioner corporation's operations and funds. In *Vivo vs. Cloribel*, 18 SCRA 713 (1966), and *Bache and Co. (Phil). Inc., et al vs. Hon. Ruiz*, 37 SCRA 823, 836 (1971), this Court held that a Motion for Reconsideration is no longer a prerequisite where there is urgent necessity and any further delay would prejudice the interests of the Government.

Finally, to sustain Rural Power's stand would be to put a premium on procedural technicality, which should not be made to prevail over petitioner's substantive right to appeal. Considering the fact that the two Records on Appeal were totally unopposed by Rural Power and that giving the appeal due course would not have prejudiced its rights nor substantially affected the merits of the case, the spirit of liberality which animates the Rules rather than strict technicality would be more in keeping with the ends of justice. As this Court, speaking through Justice Moreland, in the case of *Alonzo vs. Villamor*, 16 Phil. 321 (1910), said:

"The error in this case is purely technical. To take advantage of it rather than to cure it, does not appeal to a fair sense of justice. Its presentation as fatal to the plaintiff's case smacks of skill rather than right. A litigation is not a game of technicalities in which one, more deeply schooled and skilled in the subtle art of movement and position entraps and destroys the other. It is, rather, a contest in which each contending party fully and fairly lays before the court the facts in issue, and then brushing aside as wholly trivial and indecisive all imperfections of form and technicalities of procedure, asks that justice be done on the merits. Lawsuits, unlike duels are not to be won by the rapier's thrust. Technicality when it deserts its proper office as an aid to justice becomes its great hindrance and enemy, and deserves scant consideration from the courts. There are no vested rights in technicalities."

WHEREFORE, in view of the foregoing, the Decision of respondent Appellate Court (former Special 8th

Division), dated August 17, 1970, is hereby annulled and the Regional Trial Court corresponding to the former Court of First Instance of Pangasinan (Lingayen Branch) is hereby directed to transmit the entire original record of the case to the Intermediate Appellate Court (the Record on Appeal having been eliminated by Batas Pambansa Blg. 129).

SO ORDERED.

Teehankee (Chairman), Plana, Relova, and Gutierrez, Jr., JJ., concur.

[1] pp. 6-7, Decision, Court of Appeals.

[2] Detective and Protective Bureau, Inc. vs. Cloribel, 26 SCRA 255 (1969).

[3] PALEA vs. PAL, 111 SCRA 215 (1982).

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.