

PEOPLE OF THE PHILIPPINES, PETITIONER, VS. HON. JOSE S. RODRIGUEZ, NICASIO YATCO AND ANDRES O. REYES, AS ASSOCIATE JUSTICES OF THE COURT OF APPEALS AND MEMBERS OF A COMPOSITE SP...

G.R. No. L-32657. September 01, 1992

Ponente: NOCON, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/a4c1cd38e71b/>

NOCON, J.:

The People filed this petition for certiorari to annul the resolution dated September 22, 1970 of the Court of Appeals in CA-G.R. No. 07797-CR which granted the third motion for reconsideration of private respondent Cesar Dean and acquitted him of the crime of homicide, on the ground that respondent court (1) acted with grave abuse of discretion amounting to lack or excess of jurisdiction in acting upon said motion for reconsideration; and (2) acted without jurisdiction or in excess of jurisdiction or with grave abuse of discretion amounting to lack of jurisdiction for its failure to require petitioner to answer said motion for reconsideration.

The facts of the case are as follows: Private respondent Cesar Dean was found guilty of the crime of homicide for the death of Leopoldo Boroc by the Court of First Instance of Samar. Appreciating the mitigating circumstances of sufficient provocation on the part of the victim and lack of intention to commit so grave a wrong in favor of private respondent, he was sentenced to suffer on indeterminate penalty of six (6) months and one (1) day of prision correccional to six (6) years and one (1) day of prision mayor, and to indemnify the heirs of Leopoldo Boroc in the amount of P6,000.00, without subsidiary imprisonment in case of insolvency and to pay the costs.

Private respondent appealed to the Court of Appeals, which rendered its decision on September 3, 1969[1] affirming the judgment of conviction, but modified the penalty imposed on private respondent to six (6) years and one (1) day of prision mayor as minimum, to twelve (12) years and one (1) day of reclusion temporal as maximum, and to indemnify the heirs of Leopoldo Boroc the amount of P12,000.00.

On November 21, 1969, private respondent filed an ex parte motion for reconsideration on the ground that the evidence on record failed to establish his guilt beyond reasonable doubt. The Court of Appeals denied the same on December 6, 1969.

On December 15, 1969, private respondent filed an ex parte motion for leave of court to file a second motion for reconsideration, with the second motion for reconsideration attached thereto. Without acting upon the motion for leave, the court considered the motion for reconsideration, but a unanimous decision could not be reached. Consequently, then Presiding Justice Salvador V. Esguerra appointed one other Justice[2] and himself to sit temporarily with the members of the division, thus forming a division of five Justices.[3] On July 17, 1970, the Court of Appeals, acting through the division of five, denied the second motion for reconsideration by a vote of three to two.[4]

On July 24, 1970, private respondent filed an ex parte motion for leave and extension of time to file a motion for

reconsideration, which was granted by the Court of Appeals on August 13, 1970, by a vote of three to two. Meanwhile, on August 5, 1970, petitioner filed his third motion for reconsideration. The Court of Appeals, by a vote of three to one, promulgated the questioned resolution dated September 22, 1970 granting the third motion for reconsideration and acquitting private respondents.[5] Justice Jose M. Mendoza, the ponente of the original decision, did not sign the said resolution since he retired on August 21, 1970. However, the questioned resolution stated that:

On August 19, 1970, Mr. Justice Jose M. Mendoza voted to deny the instant motion for reconsideration as "The [sic] grounds stated in the Third Motion for Reconsideration have been fully discussed in our resolution of the second motion for reconsideration, dated July 17, 1970.[6]

The Solicitor General contended that the Court of Appeals acted without or in excess of jurisdiction and with grave abuse of discretion in acting favorably on the third motion for reconsideration, since the same was pro forma and that the appellate court did not follow the procedure laid down in Section 15, Rule 124 of the Rules of Court.

We find the petition unmeritorious.

The Solicitor General argued that the Court of Appeals erred in considering the third motion for reconsideration since the same was pro forma. The Solicitor General pointed out that Justice Mendoza stated in the questioned resolution that the arguments raised in the third motion for reconsideration were fully discussed in the resolution denying the second motion for reconsideration.

We do not agree. A motion for reconsideration is deemed pro forma when the same does not specify the findings or conclusions in the judgment which are not supported by the evidence or which are contrary to law, making express reference to the pertinent evidence or legal provisions, as expressly required in the third paragraph of Section 2, Rule 37 of the Rules of Court.[7] Though the motion for reconsideration may be a repetition of the issues already passed upon by the trial court, the same is immaterial because what is essential is the compliance with the requirements of the Rules.[8]

An examination of the third motion for reconsideration[9] reveals the same not to be pro forma since it made specific references to the evidence in compliance with Section 2 of Rule 37.

Neither do We agree with the Solicitor General's contention that, in view of Section 15, Rule 124 of the Rules of Court,[10] the third motion for reconsideration should have first been submitted to the original division of three justices, and that recourse to a division of five should only be made when the division fails to reach a unanimous vote.

There is nothing in Section 15, Rule 124 to support the Solicitor General's position. It would be superfluous to submit the third motion for reconsideration to the original division since there was already no unanimity on the second motion for reconsideration, and to do so would unnecessarily delay the case. Moreover, once a division of five is formed, it retains the sole authority to decide all matters pertaining to the case until the same is terminated and the records thereof remanded to the court of origin.

The Solicitor General asserted that the questioned resolution was null and void since the third motion for reconsideration was not collectively deliberated upon by the division and that the resolution was promulgated after the retirement of Justice Mendoza. The Solicitor General also assailed the validity of the resolution on the ground that the prosecution was not given an opportunity to oppose the third motion for reconsideration.

We do not find the resolution in question null and void. First of all, there is nothing in the record which would indicate that the division did not collectively deliberate upon the third motion for reconsideration.

Secondly, the fact that Justice Mendoza retired prior to the promulgation of the questioned resolution did not render the same null and void. Section 12 of Rule 124 provides:

SEC. 12. Quorum of the court. -- x x x. In the event that the three Justices do not reach a unanimous vote, the presiding Justice shall designate two Justices from among the other members of the Court to sit temporarily with them, forming a division of five Justices, and the concurrence of a majority of such division shall be necessary for the pronouncement of a judgment.[11]

Inasmuch as Justice Mendoza was not part of the majority, having voted along with Presiding Justice Esguerra to deny the motion for reconsideration, his vote was not necessary in order for the questioned resolution to be promulgated.

Finally, Section 15, Rule 124 does not require that notice be given to the People of the filing of a motion for reconsideration since the same is allowed to be filed ex parte. Neither do the Rules require the Court of Appeals to allow the People to file an opposition thereto. At any rate, the People are not deprived of their day in court since the matters that may be raised in the motion for reconsideration will undoubtedly be a reiteration of the appellant's brief, which the People had a chance to refute. However, it should be noted that the rule regarding motions for reconsideration is different under the amended 1985 Rules on Criminal Procedure in that under the 1964 Rules of Court, the motion may be filed ex parte,[12] while under the 1985 Amended Rules, copies of the motion for reconsideration have to be served on the adverse party.[13]

WHEREFORE, the instant petition for certiorari is hereby DENIED for lack of merit. Cost de officio.

SO ORDERED.

Padilla and Regalado, JJ., concur.

Narvasa, C.J., (Chairman), in the result.

Melo, J., no part.

[1] Third Division: Justice Jose M. Mendoza, ponente; Justices Jose S. Rodriguez and Nicasio A. Yatco, concurring. Rollo, p. 31.

[2] Justice Andres Reyes.

[3] See Rule 124, sec. 12.

[4] Justice Mendoza, ponente; Presiding Justice Esguerra and Justice Rodriguez, concurring. Justices Yatco and Reyes, dissenting. Rollo, p. 55.

[5] Justice Yatco, ponente; Justices Rodriguez and Reyes, concurring. Presiding Justice Esguerra, dissenting. Rollo, p. 24.

[6] Resolution of the Court of Appeals dated Sept. 22, 1970, p. 7.

[7] Cruz vs. Villaluz, L-41684, 88 SCRA 506 (1979).

[8] Id., p. 511.

[9] Rollo, pp. 55-73.

[10] Said section provides:

SEC. 15. Re-hearing or reconsideration. -- Application for a re-hearing or reconsideration shall be made ex parte

on motion setting forth the grounds on which they are made, and filed within fifteen (15) days after notice of the decision of the court. No oral argument therein shall be allowed. If re-hearing is granted, the cause shall be re-reheard in conformity with the requirement to the first hearing. The mittimus shall be stayed during the pendency of a motion for a re-hearing or reconsideration. More than one motion for re-hearing or reconsideration shall not be filed in any case without express leave of court.

[11] Emphasis supplied.

[12] Sec. 15, Rule 124.

[13] Sec. 16, Rule 124, Rules on Criminal Procedure, as amended, provides:

SEC. 16. Rehearing or reconsideration. -- Motion for a rehearing or reconsideration shall be made within fifteen (15) days after notice of the decision of the court, with copies served upon the adverse party, setting forth the grounds on which they are made. The mittimus shall be stayed during the pendency of a motion for rehearing or reconsideration. No party shall be allowed to file a second motion for rehearing or reconsideration of a final judgment or order.

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.