

J. M. JAVIER LOGGING CORPORATION, PETITIONER, VS. ATANACIO A. MARDO, ACTING CHIEF REFEREE, WORKMEN'S COMPENSATION UNIT, REGIONAL OFFICE 4, DEPARTMENT OF LABOR, MANILA; NICANOR S...

G.R. No. L-28188. August 27, 1968

Ponente: REYES, J. B. L., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/b453187d4bb4/>

REYES, J. B. L., J.:

Petition for writs of certiorari and prohibition against respondents to review and set aside, for want of jurisdiction, a writ of execution issued Atanacio Mardo, Chief Hearing Officer, Regional Office No. 4, and the levy made by the Provincial Sheriff of Rizal, through his deputy, pursuant to said writ.

The petition was duly accepted by this Court and a preliminary injunction issued upon a bond of P5,000.00.

On 13 April 1966, one Jose C. Solomon had filed with the Department of Labor, Regional Office No. 4, a Notice of Injury or Sickness with Claim for compensation against J. M. Javier Logging Corporation, a Philippine corporation. Upon receipt thereof, the employer corporation failed to accomplish submit the Employer's Report, as required by the Workmen's Compensation Act the ground that claimant had resigned from the employ of the Company as of December 1965, and had received separation pay.

The case was set for hearing, and in due time, on 28 July 1967, decided in favor of the claimant. Copy of the decision was sent on 7 August 1967 to counsel of record for the employer at Makati, Rizal, by registered mail; but no registry return card showing receipt appears on record. Another copy of the decision was sent to the employer itself at its recorded address, and admittedly received by it on 9 August 1967.

On 25 August 1967, the employer, through another counsel, filed a motion for reconsideration. The deciding officer declined to entertain it, on the ground that it was filed one day after the 15th day from receipt by the employer (on 9th August) of a copy of the decision, and that the award had become final and executory. In view thereof, execution was issued by the Chief Referee, through the hearing officer, and levied by the Provincial Sheriff on 19 September 1967. The employer appealed to the Commission en banc, but its appeal was turned down on 25 October 1967, the Commission being also of the opinion that the decision had become final. Hence the present petition.

It is now the petitioning employer's position that, because it was represented by counsel, service of a copy of the decision upon the employer itself was invalid; and that the service by mail upon its original counsel could be deemed complete only upon the fifth day from the receipt of the first notice from the postmaster (Rule 13, section 8); that even assuming that the postmaster of Makati received the mailed copy of the decision on 8 August, the day following its mailing, and issued the notice to the addressee on that same day, the service was not complete until 13 August; hence, the motion to reconsider the decision, filed on 25 August, was timely, and blocked the finality of the referee's decision.

Upon the other hand, respondents anchor their case on the validity of the service of the decision upon the employer corporation on 9 August, contending that the decision of the hearing officer became final on 24 August, fifteen days, after said date, for lack of seasonable appeal.

The issue narrows down to the validity of the service of the decision upon the employer itself, instead of its counsel of record.

We find the petition meritorious. Rule 13, section 2, of the Revised Rules of Court provides:

"SEC. 2. Papers to be filed and served. – Every order required by its terms to be served, every pleading subsequent to the complaint, every written motion other than one which may be heard ex parte, and every written notice, appearance, demand, offer of judgment or similar papers shall be filed with the court, and served upon the parties affected thereby. If any of such parties has appeared by an attorney or attorneys, service upon him shall be made upon his attorneys or one of them, unless service upon the party himself is ordered by the court. Where one attorney appears for several parties, he shall only be entitled to one copy of any paper served upon him by the opposite side."

In *Notor vs. Daze*, 76 Phil. 850, this Court ruled that the expression "every written notice" in the preceding section includes notice of a decision. And conformably to the later part of the rule, where a party appears by attorney, notice to the former is not a notice in law, unless service upon the party himself is ordered by the court, which does not appear in the case at bar (*Vivero vs. Santos*, 98 Phil. 500, 504; *Chaiuani vs. Judge Tancinco*, 90 Phil. 862; *Jacinto vs. Jacinto*, 52 Off. Gaz. 2582). This rule is not a mere technicality, but one founded on considerations of fair play. A party engages an attorney of record precisely because it does not feel competent to deal with the intricacies of law and procedure. Furthermore, as the party directly served would have to communicate with its attorney and turn over to him the notice received, the net result would be to noticeably shorten the usable period for taking the proper steps required to protect the party's interests.

It is regrettable that the respondents' anxiousness to grant speedy remedy the claimant has resulted in further prolonging this litigation. It should serve as a reminder of the saying that "haste makes waste". We have no alternative but to apply the rule in the interest of justice and fair play, so the case may be decided on its actual merits.

The writs applied for are granted. The writ of execution issued is annulled and set aside, and implementation thereof prohibited. The preliminary injunction heretofore issued is made permanent. No costs.

Concepcion, C.J., Dizon, Makalintal, Zaldivar and Sanchez, JJ., concur.

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.