

**G. ASSANMAL, PETITIONER, VS. UNIVERSAL TRADING CO., INC.,
RESPONDENT,***G. R. No. L-9476. November 28, 1956*

Ponente: BAUTISTA ANGELO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/ba17e7da963b/>**BAUTISTA ANGELO, J.:**

On November 5, 1945, an agreement was entered into between G. Assanmal and the Universal Trading Co., Inc. whereby the former bought from the latter 100 cases of Agewood Bourbon Whisky at \$17.00 a case, or a total of \$1,700, to be shipped from San Francisco; California, U. S. A., in November, 1945 subject to confirmation by the Los Angeles Office of said company. On November 20, 1945, G. Assanmal delivered to the company as a partial deposit the sum of P1,360. On January 15, 1946, an invoice was issued by the company to Assanmal covering the above merchandise for the sum of P3,400 which, together with bank charges of P112.00, customs duties, internal revenue charges, etc., amounting to P2,178.10, makes a total of P5,690.10, and deducting therefrom the deposit of P1,360, leaves a balance of P4,330.10. On January 26, 1946, Assanmal made another deposit of P2,330.10, thereby leaving a balance of P2,000 in the total price appearing in the invoice.

On January 11, 1946, the Universal Trading Co., Inc. advised Assanmal that the S.S. Manoeran was expected to arrive on January 17, bringing the goods ordered by him. On February 10, 1946, the goods were delivered to Assanmal. On May 13, 1946, Assanmal, through his lawyer, wrote a letter to the company advising it that he had cancelled the contract covering the shipment on account of its failure to deliver the merchandise called for in said contract and that he was ready to return it to the company. On May 22, 1946, Atty. Manuel O. Chan, representing the Universal Trading Co., Inc., acknowledged receipt of the letter stating that his client considers the transaction consummated and that Assanmal can no longer cancel the contract. He demanded that he make prompt payment of the balance of the purchase price.

On June 18, 1947, Assanmal brought this action against the Universal Trading Co., Inc. in the Court of First instance of Manila to recover the sum of P3,690 deposited by him with the company, with legal interest thereon from the filing of the complaint. Defendant, in its answer, set up certain special defenses and, by way of counterclaim, prayed that plaintiff be ordered to pay the sum of P2,000, balance of the purchase price of the merchandise, plus the sum of P5,000 as damages. After trial, the court absolved the defendant from the complaint and sentenced the plaintiff to pay the sum of P2,000, with legal interest thereon from the date of the filing of the counterclaim, without pronouncement as to costs. In due time, plaintiff appealed to the Court of Appeals, which affirmed in toto the decision of the lower court. Hence, this petition for review.

There is no dispute that the purchase of the 100 cases of Agewood Bourbon Whisky ordered by plaintiff from the defendant constitutes a commercial transaction, and as such the rights and liabilities of the parties should be determined in the light of the provisions of the Code of Commerce. There is also no dispute that what was delivered by defendant to plaintiff in fulfillment of their agreement was Panamanian Agewood Blended Whisky instead of the Bourbon Whisky called for therein, and that when the shipment arrived the whisky was contained in 100 cases on the face of which the blended brand could easily be discerned, in the same manner that in the invoice

covering the same it was stated that the whisky delivered was blended and not of the Bourbon brand. It is apparent from these facts that the defect in the merchandise was patent in nature and merely refers to a difference in the quality of the merchandise. It would therefore appear that the law applicable to the case is article 336 of the Code of Commerce which provides:

"Art. 336. The purchaser who, at the time of receiving the merchandise, fully examines the same shall have no right of action against the vendor alleging a defect in the quantity or quality of the merchandise.

A purchaser shall have a right of action against a vendor for defects in the quantity or quality of the merchandise received in bales or packages, provided he brings his action within the four days following its receipt, and that the damage was not due to accident, natural defect of the merchandise, or fraud.

In such cases the purchaser may choose between the rescission of the contract or its fulfillment in accordance with what has been agreed upon, but always with the payment of the damages he may have suffered by reason of the defects or faults.

The vendor may avoid this claim by demanding at the time of delivery that the merchandise be examined to the satisfaction of the purchaser as to its quantity and quality."

As it may be seen, the article above-quoted affords to the purchaser an alternative remedy in case the merchandise sold is found to be defective in quantity or quality and is delivered in bales or packages. The first remedy is: if the purchaser, at the time he receives the merchandise, examines it and finds it to his satisfaction, he loses his right of action against the vendor based on such a defect. The second remedy is: when the purchaser finds that the merchandise is defective in quantity or quality, after an examination, he may bring an action for damages within the period provided for by the Code of Civil Procedure.[1] The purchaser may either rescind the contract or demand its specific performance. The vendor may however avoid the liability if at the time of delivery he demands that an examination be made of the merchandise in order that its quantity or quality may be established to the satisfaction of the parties.

The evidence shows that when the merchandise in question was delivered to the plaintiff he took steps to examine it after a day or so and immediately he advised the company by phone that the merchandise was not in accordance with the quality called for in the contract, and this dissatisfaction he reiterated in a letter he sent, through his counsel, on May 13, 1946 to the defendant. Even disregarding the telephone call, which appears to be disputed, still we find that said letter was sent only three months after the merchandise was delivered on February 10, 1946. While plaintiff should have acted more expeditiously when he discovered that the merchandise was different in quality from the one he ordered, the delay, if any, is justified considering that under the contract the company was authorized to offer a reasonable substitute if the order is not available (Exhibit 1). Apparently, availing of this authority, defendant sent to plaintiff a substituted merchandise, a situation which naturally places the plaintiff in a position to determine if the substitute is reasonable or not. This may require some time, which accounts for the apparent delay in the action taken by the plaintiff. At any rate, the action of the plaintiff has not yet prescribed and, therefore, it was an error to dismiss the case on the ground of prescription.

The contention that this transaction comes under article 342 of the Code of Commerce is untenable. That article refers to latent or hidden defects which cannot be discovered from an external examination of the merchandise. The defect affecting the merchandise is not of this kind and hence that article does not apply.

Wherefore, the decision appealed from is reversed. Defendant is ordered to pay plaintiff the sum of P3,690, with legal interest thereon from the date of the filing of the complaint, with costs in this instance.

Paras, C. J., Bengzon, Padilla, Montemayor, Labrador, Reyes, J. B. L., and Endencia, JJ., concur.

[1] The period of four days mentioned in article 336, Code of Commerce, being a prescriptive provision, has been abrogated by the Code of Civil Procedure (*Ban Kian & Co. vs. Atkins Kroll & Co.*, 44 Phil., 4, 12-13). If the action is based upon a written contract, the period of prescription is ten years. In case of oral contract, the period is six years (section 43, Act No. 190).

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.