

**ALFREDO MONTELIBANO, ET AL., PLAINTIFFS-APPELLANTS, VS.
BACOLOD-MURCIA MILLING CO., INC., DEFENDANTS-APPELLEE.**

G.R. No. L-15092. September 29, 1962

Ponente: BARRERA, J.

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BARRERA, J.:

SUMMARY

Defendant's answer to the complaint raised defenses based on facts and law. The trial court in dismissing the case limited itself to the resolution of defenses based on law and ignored those based on facts. From the order of dismissal the plaintiffs appealed. Appellee's arguments in its brief were limited to the issued of law and without attempting to call the attention of the trial and appellate court to the necessity of considering the factual defenses submitted in the case for decision. Thereafter this Court rendered a decision in favor of appellants. Consequently, appellee filed two motions for reconsideration of the decision praying that it be set aside and an order be issued remanding¹ the case either to the Court of Appeals or the Court of First Instance so that appellee's factual defenses be considered. Appellee further argued that the decision is illegal since it failed to specify the quantity of sugar due the appellants. The Supreme Court denied the motions for reconsideration.

HELD: During the pendency of the' appeal the appellee had ample time and options within which it could ventilate its grounds to reconsider either in the trial court or appellate court but failed to do so. Its inaction would mean waiver of these factual defenses. The course suggested by appellee cannot be countenanced. It is the policy of this Court to discourage piecemeal appeals which are the constant source of delay, in the administration of justice and clogging of court dockets. Supplemental proceedings in aid of execution which were neither new trial nor rehearing of the case can be had to determine the quantity of sugar due the appellants.

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