

## **CATALINO F. BAÑEZ AND ROMEO P. BUSUEGO, PETITIONERS, VS. COURT OF APPEALS AND REPUBLIC PLANTERS BANK, REPUBLIC PLANTERS BANK, RESPONDENTS.**

*G.R. No. 119321. March 18, 1997*

Ponente: BELLOSILLO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-119321/>

---

### **BELLOSILLO, J.:**

AYALA CORPORATION issued on 23 December 1987 BPI Check No. 707802 for P33,226,685.69 payable to PAL Employees' Savings and Loan Association, Inc. (PESALA). The check with the words "FOR PAYEE'S ACCOUNT ONLY" written on its face was delivered in trust to Catalino Bañez in his capacity as President of PESALA. However, on the same date, Banez and his co-officers Romeo Busuego and Renato Lim deposited the check in their joint account with respondent Republic Planters Bank, Cubao Branch, which was not an official depository bank of PESALA. Later, Bañez, Busuego and Lim withdrew the amount and failed to account for it to PESALA.

On 21 April 1992, aside from a criminal case for estafa against its officers Bañez, Busuego and Lim, PESALA sued Republic Planters Bank (RPB) for the face value of the check and P500,000.00 as damages for allowing the deposit and encashment of the check despite the fact that it was a crossed check payable only to the account of PESALA, to its great prejudice and in violation of banking laws in the country.[1]

On 14 March 1994 RPB moved for leave to file a third-party complaint against Catalino Bañez, Romeo Busuego, Renato Lim and Alberto Barican, the latter as manager of RPB, Cubao Branch, alleging that they were solely and exclusively responsible for the loss of the value of the check through their misrepresentation which led the bank to believe that they were authorized to deposit and withdraw the amount. The motion was granted.

Meanwhile on 6 April 1994 PESALA and RPB (by then known as PNB-RB)[2] forged a compromise agreement under which PNB-RB agreed to pay PESALA P20,226,685.00. PESALA, in turn, undertook to assist PNB-RB in prosecuting the third-party defendants for the liability assumed by the bank.

On 13 April 1994 the trial court approved the compromise.

Upon the foregoing amicable settlement, third-party defendant Lim moved to dismiss the third-party complaint on the ground that it could not stand on its own after the termination of the main complaint by compromise since the third-party complaint was but an incident and a continuation of the main case. Third-party defendants Bañez and Busuego, aside from adopting the ground invoked by defendant Lim, likewise moved to dismiss on grounds of *lis pendens*, forum shopping, lack of jurisdiction and cause of action.

On 14 July 1994 the trial court deferred action on the motion to dismiss anchored on grounds of *lis pendens* and forum shopping, but denied the motion outright anchored on grounds of lack of jurisdiction and termination of the principal complaint.[3] The motion of third-party defendants to reconsider the order was denied on 27 October 1994 since the compromise between plaintiff PESALA and third-party plaintiff PNB-RB did not operate to

automatically dismiss the third-party complaint as the latter was actually independent of, and separate and distinct from, the plaintiff's complaint.[4]

On 1 December 1994 petitioners Bañez and Busuego instituted a special civil action for certiorari with the Court of Appeals imputing grave abuse of discretion on the part of the trial court in issuing the Orders of 14 July and 27 October 1994 attaching duplicate original copies thereof. On 14 December 1994 the Special Fifth Division of the Court of Appeals, without necessarily giving due course to the petition, ordered respondents to comment thereon.[5] However, on 31 January 1995, another Resolution[6] was issued by the appellate court, this time through its Special Eleventh Division, dismissing the petition for failure of petitioners to attach certified true copies of the questioned orders as required under Sec. 2, par. (a), Rule 6, of the Revised Internal Rules of the Court of Appeals. The motion for reconsideration was denied.[7] Hence, this petition.

Two issues are presented before us: whether respondent Court of Appeals erred in dismissing the special civil action for certiorari for failure of petitioners to attach certified true copies, as opposed to duplicate originals, of the questioned orders; and whether the earlier dismissal (by virtue of compromise) of the main complaint warrants the automatic dismissal of the third-party complaint filed in consequence thereof.

On the procedural issue, petitioners do not deny their failure to attach certified true copies of the questioned Orders dated 14 July and 27 October 1994. However they contend that the duplicate originals thereof which they attached to their petition constitute sufficient compliance with the requirements of Sec. 2, par. (a), Rule 6, of the Revised Internal Rules of the Court of Appeals[8] since Revised Circular No. 1-88 issued by the Supreme Court itself allows either a clearly legible duplicate original or certified true copy of the assailed decision, judgment, resolution or order to be attached to the petition.[9] Thus, petitioners posit that Sec. 2, par. (a), Rule 6, of the Revised Internal Rules of the Court of Appeals should not be read in a "myopic" manner but, rather, liberally consistent and in conjunction with SC Revised Circular No. 1-88.

On the other hand, respondent PNB-RB argues that Revised Circular No. 1-88 cannot be successfully invoked by petitioners since it pertains only to requirements for petitions filed with the Supreme Court, not with the Court of Appeals. In the latter case, its Revised Internal Rules, which mandate that certified true copies of the questioned order must be attached to a petition in special civil actions for certiorari, apply.

We had occasion to rule that the submission of a duplicate copy of the questioned order of the trial court (bearing its seal) in a petition for certiorari constitutes substantial compliance with the rule requiring submission of the certified copies of the orders complained of.[10] However, a similar liberal construction cannot be applied in favor of petitioners since courts suspend their own rules or except a case from them only when substantial justice so warrants, as when the merit of a party's cause is apparent and outweighs consideration of non-compliance with certain formal requirements.[11] To reiterate, a similar relaxation of procedural rules is not warranted in the case at bench due to the lack of merit of petitioners' cause.

Petitioners argue that the third-party complaint filed against them by PNB-RB should have been immediately dismissed in view of the prior dismissal of the main complaint filed against PNB-RB by PESALA. Since jurisdiction of the trial court over the main action has been terminated, its jurisdiction over the third-party complaint necessarily ended as well since the latter is but a continuation of, or ancillary to, the main action.

The above contention is devoid of merit. Petitioners liken a third-party complaint to a cross-claim and then, by analogy, apply the ruling in *Ruiz Jr. v. Court of Appeals*[12] where the Court said that the dismissal of the complaint divested the cross-claimants of whatever appealable interest they might have had before and made the cross-claim itself no longer viable.[13]

A third-party complaint is indeed similar to a cross-claim, except only with respect to the persons against whom they are directed.[14] However, the ruling in Ruiz cannot be successfully invoked by petitioners. In Ruiz we declared that the dismissal of the main action rendered the cross-claim no longer viable only because the main action was categorically dismissed for lack of cause of action. Hence, since defendants could no longer be held liable under the main complaint, no reason existed for them anymore to sue their co-party under the cross-claim.

In sharp contrast thereto, the termination of the main action between PESALA and PNB-RB was not due to any finding that it was bereft of any basis. On the contrary, further proceedings were rendered unnecessary only because defendant (third-party plaintiff) PNB-RB, to avoid a protracted litigation, voluntarily admitted liability in the amount of P20,226,685.00. Hence, the termination of the main action between PESALA and PNB-RB could not have rendered lifeless the third-party complaint filed against petitioners, as it did the cross-claim in Ruiz Jr. v. Court of Appeals, since it involved a finding of liability on the part of PNB-RB even if it be by compromise.

Petitioners allege that it would be an injustice to them if they should be made to carry the burden of contribution or indemnity for the liability voluntarily assumed by respondent PNB-RB in the compromise agreement to which they were never parties. But no injustice will result. A continuation of the proceedings with respect to the third-party complaint will not ipso facto subject petitioners, as third-party defendants, to liability as it will only provide the parties with the occasion to litigate their respective claims and defenses. Petitioners' assertion that they are not liable for the obligation voluntarily assumed by PNB-RB in the compromise is but a defense to resist the third-party complaint which they can properly raise in the course of the trial and prove by whatever evidence they may have on the matter.

WHEREFORE, the petition is DENIED. The questioned Resolutions of the Court of Appeals dated 31 January and 22 February 1995 are AFFIRMED, with costs against petitioners.

SO ORDERED.

Padilla, (Chairman), Vitug, Kapunan, and Hermosisima, Jr., JJ., concur.

---

[1] Docketed as Civil Case No. 92-60968, RTC-Br. 16, Manila.

[2] Philippine National Bank-Republic Bank.

[3] Rollo, pp. 74-75.

[4] Id., p. 92.

[5] Resolution penned by Justice Ricardo J. Francisco (now Associate Justice of the Supreme Court) with Justices Ramon A. Barcelona and Godardo A. Jacinto, concurring; Rollo, p. 118.

[6] Resolution penned by Associate Justice Pacita Canizares-Nye with Justices Conchita Carpio-Morales and Bernardo LI. Salas, concurring; Rollo, p. 159.

[7] Resolution dated 22 February 1995; Id., pp. 160-161.

[8] What should be Filed. - The petition shall be filed in seven (7) legible copies and a copy thereof shall be served on each of the respondents, and must be accompanied by a certified true copy of the decision or order complained of and true copies of the pleadings and other pertinent documents and papers (underscoring ours).

[9] (3) Copies of judgment or resolution sought to be reviewed. - Petitions filed with the Supreme Court, whether under Rule 45, Rule 65, R.A. No. 5440 or P.D. No. 1606 shall be accompanied by a clearly legible duplicate original or certified true copy of the decision, judgment, resolution or order subject thereof x x x x

[10] Pizarro v. Court of Appeals, No. L-31979, 6 August 1980, 99 SCRA 72, 82.

[11] Jose v. Court of Appeals, No. L-38581, 31 March 1976, 70 SCRA 257, 265; Alcaide v. Dela Merced, No. L-49028, 25 July 1981, 106 SCRA 41, 47; Maturan v. Araula, G.R. No. 57392, 30 January 1982, 111 SCRA 615, 618; Tan v. Director of Forestry, No. L-24548, 27 October 1983, 125 SCRA 302, 317; Aznar III v. Bernard, G.R. No. 81190, 9 May 1988, 161 SCRA 276, 282-283; Yong Chan Kim v. People, G.R. No. 84719, 10 August 1989, 176 SCRA 277, 285-286.

[12] G.R. No. 101566, 17 August 1992, 212 SCRA 660.

[13] Id., p. 664.

[14] Regalado, Remedial Law Compendium, 1988 ed., vol. I, p. 94.

**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.