

## **MALAYAN INSURANCE CO., INC., PETITIONER, VS. PHILIPPINE NAILS AND WIRES CORPORATION, RESPONDENT.**

*G.R. No. 138084. April 10, 2002*

Ponente: QUISUMBING, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-138084/>

---

### **QUISUMBING, J.:**

This petition for review seeks the reversal of the decision dated September 30, 1998, of the Court of Appeals in CA-G.R. CV No. 45547, affirming the decision dated December 10, 1993, of the Regional Trial Court of Pasig, Metro Manila, Branch 163, and the resolution dated March 25, 1999, of the Court of Appeals denying the petitioner's motion for reconsideration.[1]

Respondent Philippine Nails and Wires Corporation insured against all risks its shipment of 10,053.400 metric tons of steel billets valued at P67,156,300 with petitioner Malayan Insurance Company Inc. The shipment delivered was short by 377.168 metric tons. For this shortage, respondent claimed insurance for P2,698,637.04, representing the value of undelivered steel billets, plus customs duties, taxes and other charges paid by respondent. Petitioner refused to pay.

On July 28, 1993, respondent filed a complaint against petitioner for sum of money with the RTC of Pasig representing said lost and/or undelivered cargo. Petitioner moved to dismiss the complaint on the grounds that it failed to state a cause of action, and that it was filed in the wrong venue. The motion was denied. It thus filed a petition for prohibition with the Court of Appeals. This was also denied. Upon motion for reconsideration, the petition was reinstated. However, it was eventually dismissed by the Court of Appeals, and its dismissal became final and executory.

On September 8, 1993, respondent filed a motion to admit an amended complaint which the trial court granted. It sent petitioner summons and a copy of the complaint on October 13, 1993 and also gave petitioner until October 31, 1993 to file its answer.

On November 4, 1993, respondent moved to declare petitioner in default. The trial court granted and allowed the presentation of evidence *ex parte* before the branch clerk of court. Respondent presented its lone witness, Jeanne King.

On November 11, 1993, petitioner filed its answer with compulsory counterclaim. Upon motion by the respondent, the trial court expunged from the records the answer for late filing.

On December 10, 1993, the trial court rendered a judgment by default which reads:

WHEREFORE, premises considered, Judgment is hereby rendered in favor of plaintiff and against defendant, ordering the latter to pay the following:

- P2,532,926.53 representing the insured value of the lost and/or not delivered 377.168 metric tons of steel billets plus legal rate of interest from date of filing of this complaint until fully paid;

- Fifteen (15) percent of the amount awarded to plaintiff as attorney's fees; and
- Cost of suit.

SO ORDERED.[2]

Respondent moved to execute judgment pending appeal. The trial court granted the motion. Meanwhile, petitioner filed its notice of appeal which was given due course.

Pursuant to the grant of the motion for execution, the trial court issued the corresponding writ. Petitioner filed a petition for certiorari with prayer for a temporary restraining order to enjoin the implementation of the writ. The Court of Appeals granted the prayer for the temporary restraining order. The writ of execution was likewise stayed by the trial court which favorably considered petitioner's urgent motion to stay execution pending appeal and to approve the supersedeas bond.

Pursuant to the notice of appeal, the entire records of the case were elevated to the Court of Appeals, where petitioner argued that the trial court erred in rendering judgment by default notwithstanding that issues were joined by petitioner's filing of an answer; in awarding damages to respondent based on unauthenticated documentary evidence and hearsay; and in admitting documentary evidence which is irregular in nature and not in accordance with the Rules of Court.

The Court of Appeals concurred with the trial court and disposed the case thus:

WHEREFORE, premises considered, there being no reversible error committed by the lower court, the judgment appealed from is hereby AFFIRMED in toto.[3]

The Court of Appeals held that the trial court did not abuse its discretion nor err when it expunged the answer from the records because petitioner answered way beyond the prescribed period. It further held that respondent's witness, Jeanne King, was a competent witness because she personally prepared the documentary evidence and had personal knowledge of the allegations in the complaint. In addition, the appellate court said that conclusions and findings of fact of the trial courts were entitled to great weight on appeal and should not be disturbed unless for strong and cogent reasons, which were not present in this case. Lastly, the absence of a written report by the branch clerk of court on the ex parte proceedings did not necessarily deny petitioner due process. Nothing in the Rules of Court stated that the absence of the commissioner's written report nullified a judgment by default. The appellate court observed that if there was a defect, such was only procedural that can be waived. Besides, petitioner was declared in default because of its own failure to answer within the prescribed period. It cannot claim denial of due process because it was given the opportunity to be heard.

Petitioner's motion for reconsideration was denied, hence, this petition alleging that the Court of Appeals erred and acted contrary to existing law and jurisprudence in:

- ...GIVING PROBATIVE VALUE TO THE PURELY HEARSAY TESTIMONY OF RESPONDENT'S SOLE WITNESS.
- ...AFFIRMING THE DECISION OF THE TRIAL COURT WHICH WAS BASED ON DOCUMENTARY EVIDENCE ADMITTED WITHOUT BEING PROPERLY AUTHENTICATED.[4]

For resolution now are the following issues: Was Jeanne King's testimony hearsay, thus without any probative value? Should respondent authenticate the documentary evidence it submitted at the trial?

On the first issue, petitioner Malayan Insurance Co., Inc., contends that Jeanne King's testimony was hearsay because she had no personal knowledge of the execution of the documents supporting respondent's cause of

action, such as the sales contract, invoice, packing list, bill of lading, SGS Report, and the Marine Cargo Policy. Petitioner avers that even though King was personally assigned to handle and monitor the importation of Philippine Nails and Wires Corporation, herein respondent, this cannot be equated with personal knowledge of the facts which gave rise to respondent's cause of action. Further, petitioner asserts, even though she personally prepared the summary of weight of steel billets received by respondent, she did not have personal knowledge of the weight of steel billets actually shipped and delivered.

At the outset, we must stress that respondent's cause of action is founded on breach of insurance contract covering cargo consisting of imported steel billets. To hold petitioner liable, respondent has to prove, first, its importation of 10,053.400 metric tons of steel billets valued at P67,156,300.00, and second, the actual steel billets delivered to and received by the importer, namely the respondent. Witness Jeanne King, who was assigned to handle respondent's importations, including their insurance coverage, has personal knowledge of the volume of steel billets being imported, and therefore competent to testify thereon. Her testimony is not hearsay, as this doctrine is defined in Section 36, Rule 130 of the Rules of Court.[5]

However, she is not qualified to testify on the shortage in the delivery of the imported steel billets. She did not have personal knowledge of the actual steel billets received. Even though she prepared the summary of the received steel billets, she based the summary only on the receipts prepared by other persons. Her testimony on steel billets received was hearsay. It has no probative value even if not objected to at the trial.[6]

On the second issue, petitioner avers that King failed to properly authenticate respondent's documentary evidence. Under Section 20, Rule 132, Rules of Court,[7] before a private document is admitted in evidence, it must be authenticated either by the person who executed it, the person before whom its execution was acknowledged, any person who was present and saw it executed, or who after its execution, saw it and recognized the signatures, or the person to whom the parties to the instruments had previously confessed execution thereof. In this case, respondent admits that King was none of the aforementioned persons. She merely made the summary of the weight of steel billets based on the unauthenticated bill of lading and the SGS report. Thus, the summary of steel billets actually received had no proven real basis, and King's testimony on this point could not be taken at face value.

Petitioner contends that the Court of Appeals erred in giving imprimatur to the trial court's ruling with regard to the admission of documentary evidence submitted by respondent. On this score, we find petitioner's contention meritorious. Under the rules on evidence, documents are either public or private. Private documents are those that do not fall under any of the enumerations in Section 19, Rule 132 of the Rules of Court.[8] Section 20[9] of the same law, in turn, provides that before any private document is received in evidence, its due execution and authenticity must be proved either by anyone who saw the document executed or written, or by evidence of the genuineness of the signature or handwriting of the maker. Here, respondent's documentary exhibits are private documents. They are not among those enumerated in Section 19, thus, their due execution and authenticity need to be proved before they can be admitted in evidence. With the exception concerning the summary of the weight of the steel billets imported, respondent presented no supporting evidence concerning their authenticity.[10] Consequently, they cannot be utilized to prove loss of the insured cargo and/or the short delivery of the imported steel billets. In sum, we find no sufficient competent evidence to prove petitioner's liability.

WHEREFORE, the petition is GRANTED. The decision of the Court of Appeals dated September 30, 1998 and its resolution on March 25, 1999 in CA-G.R. CV No. 45547 are REVERSED and SET ASIDE. In lieu thereof, Civil Case No. 63445 is hereby ordered DISMISSED.

No pronouncement as to costs.

**SO ORDERED.**

Bellosillo, (Chairman), Mendoza, and De Leon, Jr., JJ., concur.

---

[1] Rollo, pp. 12-32.

[2] Records, pp. 214-215.

[3] Supra, note 1 at 52.

[4] Id. at 19.

[5] Rule 130, Section 36, Rules of Court: Testimony generally confined to personal knowledge; hearsay excluded. – A witness can testify only to those facts which he knows of his personal knowledge; that is, which are derived from his own perception, except as otherwise provided in these rules.

[6] Eugenio vs. Court of Appeals, G.R. No. 103737, 239 SCRA 207, 216 (1994).

[7] Rule 132, Section 20. Proof of private document. – Before any private document offered as authentic is received in evidence, its due execution and authenticity must be proved either:

- (a) By anyone who saw the document executed or written; or
- (b) By evidence of the genuineness of the signature or handwriting of the maker.

Any other private document need only be identified as that which it is claimed to be. (21a)

[8] Rule 132, Section 19. Classes of documents. – For the purpose of their presentation in evidence, documents are either public or private.

Public documents are:

- a) The written official acts, or records of the official acts of the sovereign authority, official bodies and tribunals, and public officers, whether of the Philippines, or of a foreign country;
- b) Documents acknowledged before a notary public except last wills and testaments; and
- c) Public records, kept in the Philippines, of private documents required by law to be entered therein.

All other writings are private. (20a)

[9] Supra, note 7.

[10] TSN, November 9, 1993, pp. 136-144.

**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.