

JEHAN SHIPPING CORPORATION, PETITIONER, VS. NATIONAL FOOD AUTHORITY, RESPONDENTS.

G.R. NO. 159750. December 14, 2005

Ponente: PANGANIBAN, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-159750/>

PANGANIBAN, J.:

The general rule is that the three-day notice requirement in motions under Sections 4 and 5 of the Rules of Court is mandatory. It is an integral component of procedural due process. But when the adverse party has actually had the opportunity to be heard, and has indeed been heard through pleadings filed in opposition to the motion, the purpose behind the rule is deemed duly served. The requirements of due process are substantially complied with.

The Case

Before us is a Petition for Review,[1] filed by Jehan Shipping Corporation under Rule 45 of the Rules of Court. The Petition seeks to reverse and set aside the January 31, 2003 Decision[2] and the September 9, 2003 Resolution[3] of the Court of Appeals (CA) in CA-GR SP No. 69209. The assailed CA Decision disposed as follows:

"WHEREFORE, in the light of the foregoing, the Petition is hereby GRANTED. The questioned Joint Resolution dated 08 January 2002, the Writ of Execution dated 16 January 2002, and the Order dated 25 January 2002 are hereby SET ASIDE. Public respondent is ordered to rule on the substantive merits of petitioner [herein respondent] NFA's Motion for Reconsideration and Supplemental Motion For Reconsideration and, thereafter, to proceed in accordance with the rules of procedure. The injunction prayed for is hereby GRANTED and made permanent."[4]

The CA denied reconsideration in its September 9, 2003 Resolution.

The Facts

The relevant procedural and factual antecedents of this case are summarized in the challenged Decision, as follows:

"On 02 August 1997, [petitioner] Jehan Shipping Corporation (Jehan, for short) filed a complaint against NFA [National Food Authority] before the Regional Trial Court of Cebu City, Branch 5 for collection of a sum of money with a prayer for injunction. The complaint alleged, among others, that NFA failed and refused to pay the sum of One Hundred Thirty Nine Thousand and Thirty Pesos (P139,030.00) representing earned freight for the services of Jehan's vessel, the M/V Phannie, which NFA hired on 30 April 1996 to transport NFA's nineteen thousand three hundred (19,300) bags of imported rice from the M/V Altabith berthed at the Cebu anchorage area to the pier of Cebu City. The complaint further alleged that the M/V Phannie capsized and sank on 01 May 1996 due to big waves generated by fast crafts for which reason, thus, Jehan incurred expenses in salvaging and subsequently rehabilitating the vessel in the amount of Thirteen Million Six Hundred Twelve Thousand Seven Hundred Sixty Seven Pesos and Forty Seven Centavos (P13,612,767.47); and that the sinking of the vessel was due to NFA's fault and negligence as an NFA representative who was on the vessel did not

allow it to leave because there was no berthing space at the pier though the vessel would have immediately left after the bags of rice were unloaded on it. On 18 September 1997, NFA filed its Answer with Counterclaims which specifically denied Jehan's allegations, and alleged that Jehan had no cause of action; that the proximate cause of the sinking of the M/V Phannie was the fault, negligence, and lack of care and foresight of the vessel's crew which was under the employ of Jehan; that Jehan was grossly negligent in the performance of its duties in the loading of the bags of rice; that the vessel's sinking was entirely due to its unseaworthiness; and that the NFA was not liable for the salvaging and rehabilitation of the vessel as it was not the vessel's owner. NFA alleged in its counterclaim that it incurred losses equivalent to the value of the 19,300 bags of rice, and that it incurred transportation expenses, expenses to contract the services of a legal counsel, and other expenses x x x.

"On 28 August 2001, a Decision was rendered which ordered NFA, among others, to pay Jehan the amounts the latter claimed as earned freight for the services of, and as expenses in salvaging and rehabilitating, the M/V Phannie as well as interest therefor; and attorney's fees, litigation expenses, and the cost of the suit x x x.

"On 01 October 2001, NFA received a copy of the Decision x x x.

"On 02 October 2001, Jehan filed a Motion For Execution Pending Appeal to which an Opposition was filed by NFA on 25 October 2001. Jehan filed on 26 November 2001 a Reply to the Opposition to which NFA filed on 06 December 2001 a Rejoinder with addendum to the Opposition x x x.

"On 16 October 2001, NFA filed a Motion For Reconsideration of the Decision. On 12 November 2001, it filed a Supplemental Motion For Reconsideration x x x.

"On 09 November 2001, the court a quo issued in open court at the hearing on said date an Order that it shall hold in abeyance resolution of Jehan's Motion For Execution Pending Appeal pending resolution of NFA's Motion For Reconsideration x x x.

"On 15 November 2001, Jehan filed an Opposition to NFA's Motion For Reconsideration which Opposition was received by NFA on 22 November 2001. On 03 December 2001, NFA filed a Reply/Comment to the Opposition x x x.

"On 06 December 2001, Jehan filed an Opposition to Supplemental Motion For Reconsideration with Counter-Omnibus Motion: 1. For Leave to Withdraw Motion For Execution Pending Appeal; and, 2. For the Issuance of a Writ of Execution x x x.

"On 07 December 2001, public respondent called for a hearing on NFA's Motion For Reconsideration and Supplemental Motion For Reconsideration as well as Jehan's motion to withdraw the Motion For Execution Pending Appeal and motion for the issuance of a writ of execution with notice to both counsel of [NFA] and [Jehan]. [Jehan's] counsel appeared while NFA's counsel failed to appear. Public respondent issued an Order on said date which, among others, directed [NFA's] counsel to comment on Jehan's motion to withdraw the Motion For Execution Pending Appeal and motion for the issuance of a writ of execution within ten (10) days from receipt of a copy of said Order x x x.

"On 04 January 2002, NFA received the Order dated December 7, 2001 x x x.

"On 14 January 2002, NFA filed a Motion To Defer Resolution of the Plaintiff's Motion For Execution Pending Resolution of Defendant's Motion For Reconsideration and Supplemental Motion For Reconsideration x x x.

"On 08 January 2002, public respondent issued the x x x Joint Resolution [dated January 8, 2002] denying NFA's Motion For Reconsideration and Supplemental Motion For Reconsideration on the ground that it did not contain any notice of hearing directed to the parties, stating the time and place of hearing contrary to the mandate of Sections 4 and 5, Rule 15 of the Rules of Court. Consequently, public respondent granted Jehan's motion for the issuance of a writ of execution. Moreover, public respondent ruled that Jehan's Motion For

Execution Pending Appeal has become moot and academic because Jehan already decided to withdraw it x x x.

"On 16 January 2002, the x x x Writ of Execution [dated 16 January 2002] was issued x x x.

"On 18 January 2002, NFA filed a Notice of Appeal x x x.

"On 25 January 2002, public respondent issued the x x x Resolution which denied NFA's Notice of Appeal on the ground that the Decision has already become final x x x." [5]

Respondent National Food Authority (NFA) assailed before the Court of Appeals, via a Petition for Certiorari and Prohibition with Application for Preliminary Injunction and Temporary Restraining Order, the trial court's January 8, 2002 Joint Resolution, January 16, 2002 Writ of Execution, and January 25, 2002 Order.

Ruling of the Court of Appeals

The CA found that, despite lack of notice of the date and time of hearing, Jehan's counsel -- in his Oppositions -- was able to refute the substantial issues raised in the Motion for Reconsideration and the Supplemental Motion for Reconsideration filed by the NFA. Moreover, he was present during the hearing of the Motions. Hence, the CA concluded that the requirement of the Rules on notice of hearing in motions had sufficiently been met, and the trial court erred in denying the Motions and in declaring them pro forma. Consequently, it held that NFA's period to appeal had not yet lapsed.

Furthermore, the appellate court held that there was a denial of due process when the trial court ruled upon Jehan's Motion for the Issuance of a Writ of Execution even before NFA had the opportunity to file a comment within the period given.

Hence, this Petition.[6]

Issue

In its Memorandum, petitioner submits this lone issue for our consideration:

"Whether or not the Court of Appeals may still disturb, much less review and set aside on certiorari under Rule 65, a Writ of Execution issued by the trial court to implement its Decision which is already final and executory by operation of law." [7]

Stated otherwise, the issue for our resolution is whether the CA committed a reversible error of law in granting the writ of certiorari. Corollary to this question is whether the lack of notice of hearing in the Motion for Reconsideration is fatal, such that the filing of the Motion did not toll the period to appeal, and the August 28, 2001 RTC Decision consequently became final and executory.

The Court's Ruling

The Petition is devoid of merit.

Main Issue:

Lack of Notice of Hearing in a Motion for Reconsideration

Admittedly, respondent committed a procedural lapse in failing to include a notice of hearing in its Motion for Reconsideration,[8] filed on the very last day of its appeal period or on October 16, 2001. Again, it committed the same lapse in its Supplemental Motion for Reconsideration,[9] which it filed on November 12, 2001.[10] It postulates, though, that the procedural lapse should not defeat its Motions for the following reasons: (1) petitioner was able to oppose squarely the issues raised in the Motion for Reconsideration filed by respondent; and, (2) in deciding against the latter, the trial court manifestly committed a grave error, which resulted in huge losses for the

government. Respondent adds that the procedural rule, which is intended to secure substantial justice, may be relaxed when its rigid application would defeat the ends of justice.

Citing various decisions of this Court, however, petitioner avers that, because of the failure of respondent to include a notice of hearing, the latter's Motions are worthless pieces of paper with no legal effect.

Purpose Behind the Notice Requirement

This Court has indeed held time and time again that, under Sections 4[11] and 5[12] of Rule 15 of the Rules of Court, mandatory is the notice requirement in a motion, which is rendered defective by failure to comply with the requirement.[13] As a rule, a motion without a notice of hearing is considered pro forma and does not affect the reglementary period for the appeal or the filing of the requisite pleading.[14]

As an integral component of procedural due process, the three-day notice required by the Rules is not intended for the benefit of the movant. Rather, the requirement is for the purpose of avoiding surprises that may be sprung upon the adverse party, who must be given time to study and meet the arguments in the motion before a resolution by the court.[15] Principles of natural justice demand that the right of a party should not be affected without giving it an opportunity to be heard.[16]

The test is the presence of the opportunity to be heard, as well as to have time to study the motion and meaningfully oppose or controvert the grounds upon which it is based. Considering the circumstances of the present case, we believe that the requirements of procedural due process were substantially complied with, and that the compliance justified a departure from a literal application of the rule on notice of hearing.[17]

Petitioner's Opportunity To Be Heard

A close perusal of the records reveals that the trial court gave petitioner ten days within which to comment on respondent's Motion for Reconsideration. Petitioner filed its Opposition to the Motion on November 26, 2001. In its 14-page Opposition,[18] it not only pointed out that the Motion was defective for not containing a notice of hearing and should then be dismissed outright by the court; it also ventilated its substantial arguments against the merits of the Motion and of the Supplemental Motion for Reconsideration. Notably, its arguments[19] were recited at length in the trial court's January 8, 2002 Joint Resolution. Nevertheless, the court proceeded to deny the Motions on the sole ground that they did not contain any notice of hearing.

The requirement of notice of time and hearing in the pleading filed by a party is necessary only to apprise the other of the actions of the former.[20] Under the circumstances of the present case, the purpose of a notice of hearing was served.

Equally important is the fact that the trial court set the Motion for Reconsideration and the Supplemental Motion for Reconsideration for hearing on December 7, 2001, during which petitioner's counsel appeared.[21] In other cases,[22] the Court has held that lack of notice is cured when, after learning that a motion has that defect, the trial court promptly resets a hearing with due notice to all the parties. Hence, we find no reversible error committed by the CA in ruling that the Motion for Reconsideration was not pro forma and in setting aside the subject Orders of the trial court.

Counsel's Duty

Indeed, in this particular case, the purpose of the notice requirement in motions has been duly served. But even as we rule in this manner, we emphasize that NFA's lawyer was supposed to be imbued with a knowledge of rules and procedures, especially elementary ones like those involved in this case. The counsel was duty-bound to observe and abide by those rules and procedures, which were designed primarily to ensure the orderly

administration of justice. Unnecessary delays can be avoided when lawyers are diligent and faithful in performing their duties.

Additional Arguments of the Parties

In addition to its arguments on the main issue, petitioner avers that the RTC was nonetheless correct in finding that the sinking of M/V Phannie was attributable to respondent, which should therefore be made liable for the resulting damages. Respondent contends, though, that the trial court (1) should have applied the setoff or compensation principle in the instant case; and (2) should not have relied merely upon the findings and recommendations of the Special Board of Marine Inquiry (SBMI) for holding the NFA liable for the sinking of M/V Phannie.

The above arguments, however, refer to the merits of the August 28, 2001 RTC Decision. They had not been raised in the Petition before the CA and were consequently not taken up in its assailed Decision. Neither have they been included as issues in the Petition before us. In fact, the arguments of respondent are the very grounds for its Motion for Reconsideration and Supplemental Motion for Reconsideration before the trial court. Hence, we deem it improper to resolve them at this time.

WHEREFORE, the Petition is DENIED and the assailed Decision AFFIRMED. Costs against petitioner.

SO ORDERED.

Sandoval-Gutierrez, Corona, Carpio-Morales, and Garcia, JJ., concur.

[1] Rollo, pp. 10-38.

[2] *Id.*, pp. 40-52. Penned by Justice Andres B. Reyes Jr. and concurred in by Justices Delilah Vidallon-Magtolis (chairperson of the Sixth Division) and Regalado E. Maambong (member).

[3] Annex "B" of Petition; *id.*, p. 54.

[4] CA Decision, p. 13; *id.*, p. 52.

[5] CA Decision, pp. 2-7; *id.*, pp. 41-48. Italics in the original.

[6] This case was deemed submitted for Decision on October 11, 2004, upon this Court's receipt of petitioner's Memorandum, signed by Attys. Arthur D. Lim and Ma. Victoria P. Lim-Florida. Respondent's Memorandum, signed by Attys. Melita D. Go and Ivy Salome P. Pada, was received by this Court on October 4, 2004.

[7] Petitioner's Memorandum, p. 13; rollo, p. 425. All uppercase in the original.

[8] Rollo, pp. 114-123.

[9] *Id.*, pp. 124-131.

[10] Respondent's Memorandum, p. 12; rollo, p. 399.

[11] "Section 4. Hearing of motion. – Except for motions which the court may act upon without prejudicing the rights of the adverse party, every written motion shall be set for hearing by the applicant.

"Every written motion required to be heard and the notice of hearing shall be served in such a manner as to ensure its receipt by the other party at least three (3) days before the date of hearing, unless the court for good reason sets the hearing on shorter notice."

[12] "Section 5. Notice of hearing. – The notice of hearing shall be addressed to all parties concerned, and shall

specify the time and date of the hearing which must not be later than ten (10) days after the filing of the motion."

[13] *Juan v. People*, 322 SCRA 125, January 18, 2000; *Vlason Enterprises Corporation v. CA*, 369 Phil. 269, July 6, 1999; *Filipinas Fabricators & Sales, Inc. v. Magsino*, 157 SCRA 469, January 29, 1988.

[14] *Tan v. Court of Appeals*, 295 SCRA 755, September 22, 1998 (citing *De la Peña v. De la Peña*, 258 SCRA 298, July 5, 1996); *Del Castillo v. Aguinaldo*, 212 SCRA 169, August 5, 1992; *Bank of the Philippine Islands v. Far East Molasses Corp.*, 198 SCRA 689, July 2, 1991; *Pojas v. Gozo-Dalole*, 192 SCRA 575, December 21, 1990; *Sembrano v. Ramirez*, 166 SCRA 30, September 28, 1988; *Filipinas Fabricators & Sales, Inc. v. Magsino*, 157 SCRA 469, January 29, 1988; *New Japan Motors, Inc. v. Perucho*, 74 SCRA 14, November 5, 1976.

[15] *Neri v. De la Peña*, 457 SCRA 538, April 29, 2005; *Community Rural Bank of Guimba (N.E.), Inc. v. Talavera*, 455 SCRA 34, April 6, 2005; *Vlason Enterprises Corporation v. CA*, 369 Phil. 269, July 6, 1999; *Yap v. Court of Appeals*, 115 SCRA 104, 107, July 19, 1982 (citing *Amante v. Sunga*, 64 SCRA 192, May 28, 1975; *Llanto v. Dimaporo*, 16 SCRA 599, March 31, 1966.)

[16] *Gonzales v. Balikatan Kilusang Bayan sa Pananalapi, Inc.*, 454 SCRA 111, March 28, 2005.

[17] *Vlason Enterprises Corporation v. CA*, 369 Phil. 269, July 6, 1999; *Alvarez v. Sandiganbayan et al.*, 201 SCRA 557, September 13, 1991; *Patricio v. Leviste*, 172 SCRA 774, April 26, 1989.

[18] *Rollo*, pp. 236-249.

[19] *Id.*, pp. 171-176.

[20] *CMH Agricultural Corp. v. Court of Appeals*, 428 Phil. 610, March 7, 2002.

[21] See Order dated December 7, 2001; *rollo*, p. 286.

[22] *Vlason Enterprises Corporation v. CA*, 369 Phil. 269, July 6, 1999 (citing *Sunga v. Lacson*, 23 SCRA 393, 397, April 29, 1968; *De Rapisura v. Nicolas*, 16 SCRA 378, 800, April 29, 1966; *E & L Mercantile, Inc. v. Intermediate Appellate Court*, 142 SCRA 386, 392, June 25, 1986); See also *Juan v. People*, *supra*; *United Feature Syndicate, Inc. v. Munsingwear Creation Manufacturing Company*, 179 SCRA 260, November 9, 1989.

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.