

EMILIANO J. VALDEZ, PETITIONER, VS. FERNANDO JUGO, JUDGE OF FIRST INSTANCE OF MANILA, ET AL., RESPONDENTS.

G.R. No. 48859. November 28, 1942

Ponente: MORAN, J.

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MORAN, J.:

- APPEAL AND ERROR; "PRO-FORMA" MOTION FOR NEW TRIAL IS OFFENSIVE TO NEW RULES OF COURT AND DOES NOT INTERRUPT PERIOD FOR APPEAL.; NECESSITY OF SPECIFICALLY SETTING OUT REASONS IN SUPPORT OF MOTION FOR NEW TRIAL.—Petitioner's motion for new trial did not and could not interrupt the period for appeal, it having failed to state in detail as required by the rules, the reasons in support of the grounds alleged therein. Under Rule 37, section 2, third paragraph, it is now required to "point out specifically the findings or conclusions of the judgment which are not supported by the evidence or which are contrary to law, making express reference to the testimonial or documentary evidence or to the provisions of law alleged to be contrary to such findings or conclusions." And when, as in the instant case, the motion fails to make the specification thus required, it will be treated as a motion pro-forma intended merely to delay the proceedings, and as such, it shall be stricken out as offensive to the new rules.

- ID.; ID.; ID.; DELIBERATE ATTEMPT TO DELAY PROCEEDINGS.—Petitioner's case justifies indeed the full rigor of the new rules, there being circumstances showing a deliberate attempt on his part to delay the proceedings for his own convenience. He filed his motion for new trial on November 22, 1941, and set it for hearing almost one month thereafter, i. e., on December 20, 1941. The reason he gave in his oral argument to justify such delayed hearing was that he wanted to have time to study the transcript of the testimony of witnesses and find out reasons in support of the grounds alleged in his motion. Unquestionably, therefore, he filed his motion without knowing whether the grounds therefor were or were not good, and wanted to delay the proceedings to gain time for study. Again, asked as to why, when he was already in Manila and the Manila courts were already open, he failed to inquire as to the result of his motion for new trial, he candidly answered that he was not interested in speeding up the proceedings because he was the defeated party. With such an attitude this Court cannot be moved to grant an equitable relief.

ORIGINAL ACTION in the Supreme Court. Mandamus.

Decision penned by Associate Justice Manuel V. Moran.

Felix B. Bautista for petitioner.

Gregorio Perfecto for respondent Central Luzon Milling Co.

P. J. Dayrit and Bengson & Magsanoc for other respondents.

No appearance for respondent judge.

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