

CELEDONIA M. SAMSON, THE HEIRS OF SALVADOR SAMSON AND BAYSIDE, INC., PETITIONERS, VS. COURT OF APPEALS, HON. MANUEL ROMILLO, IN HIS CAPACITY AS PRESIDING JUDGE OF BRANCH XXVII O...

G.R. No. 53664. July 24, 1981

Ponente: ABAD SANTOS, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-53664/>

ABAD SANTOS, J.:

Petition for certiorari and prohibition with preliminary injunction to review the decision of the Court of Appeals in CA G.R. No. 09800 which dismissed a similar petition therein.

On May 13, 1977, Eduardo Figueras sued the spouses Salvador Samson and Celedonia Samson for P200,000, allegedly borrowed and received by the spouses from the plaintiff in 1970 and 1971. The complaint which also asked for damages and attorney's fees was docketed as Civil Case No. 5641-P in the Court of First Instance of Rizal at Pasay City. (Expediente, pp. 1-9.)

Celedonia Samson was then in California, USA, but after having been granted (through counsel) an extension of time to file a responsive pleading, she filed an answer and a motion to dismiss through her attorney-in-fact who was assisted by counsel. The answer denied the material averments of the complaints and alleged that the P200,000 was not a loan but actually payment of Eduardo Figueras' indebtedness to them. As counter-claim, it prayed for damages, attorney's fees and expenses incurred by the Samsons in connection with a business venture in Guam (USA territory) which they had with Eduardo Figueras. (Expediente, pp. 17-22.) The motion to dismiss was with respect to Salvador Samson who was said to have died in California, on May 26, 1977. (Expediente, pp. 23-24.) The motion to dismiss was never resolved by the court.

After the plaintiff had filed an answer to the counter-claim, the court set the pre-trial conference and the consideration of the motion to dismiss on October 10, 1977. (Expediente, p. 26.) The pre-trial conference was, however, re-set to November 22, 1977, as jointly prayed for by the parties. (Expediente, p. 28.) Then upon motion of the defense counsel, Atty. Rodolfo Caluag, it was moved to December 21, 1977. (Expediente, p. 33.) Atty. Caluag, again moved for another postponement so the court re-set the pre-trial conference to January 17, 1978, in its order given in open court of December 21, 1977. The order stated also: "Notify the parties and their respective counsel accordingly." (Expediente, p. 36.)

The order of December 21, 1977, was served upon Atty. Caluag by registered mail. The registry return receipt indicates that he received it on January 17, 1978, which was the date for the pre-trial. (Expediente, p. 36-A.)

Came January 17, 1978 but no pre-trial conference was held. Instead, the court issued on the same day the following order:

"When this case was called for pre-trial conference, Atty. Ernesto A. Bernabe and Atty. Virgilio Cruz appeared for plaintiff; there is no appearance for defendant, notwithstanding the fact that as indicated in the record they

were duly notified.

"As prayed for by plaintiff through counsel, and pursuant to the provisions of Sec. 2, Rule 20 of the Revised Rules of Court, defendant Celedonia Samson is hereby declared as in default; plaintiff is hereby granted leave to adduce evidence ex-parte and the Deputy Clerk of Court is hereby commissioned to receive the same.

"IT IS SO ORDERED. " (Expediente, p. 38.)

Plaintiff's evidence was received ex-parte before Atty. Eduardo S. Retutal (Expediente, pp. 40-65.) On the basis of the evidence thus received, the court rendered the decision dated May 30, 1978, with the following dispositive portion:

"WHEREFORE, judgment is hereby rendered for plaintiff against defendant Celedonia Samson:

- 1) Sentencing defendant to pay to plaintiff the amount of P200,000.00 with legal interest thereon from May 13, 1977, the date of the filing of the complaint, until the same shall have been fully paid; and,
- 2) Further sentencing defendant to pay to plaintiff the amount of P20,000.00 as and for attorney's fees.

"With costs against defendant.

"IT IS SO ORDERED." (Expediente, pp. 77-78.)

In due time, a writ of execution was issued upon the properties of Salvador Samson (Expediente, pp. 84-85) and the Bayside Nightclub and Restaurant (at 1712 Roxas Blvd., Pasay City) was levied upon and Eduardo Figueras bought it as the highest bidder. (Expediente, p. 94.)

At this point, non-parties to the suit became involved in the subsequent proceedings. After the trial court issued orders (at the instance of Eduardo Figueras) requiring the lessee and operator of the Bayside Nightclub to deposit rental payments in court, Jade Garden Enterprises Inc. as such lessee and operator deposited P45,000 in court, as rentals for the month of July, 1978. This amount was withdrawn by Eduardo Figueras (petitioners contend that Jade Garden deposited P99,000.00, in all, which was withdrawn by Eduardo Figueras), Bayside, Inc. entered a special appearance and filed a motion to recall the court's order requiring Jade Garden Enterprises to deposit rentals in court on the ground that it was the owner of Bayside Nightclub and not the Samsons.

Later, the heirs of Salvador Samson, represented by Wilfredo Samson, entered a special appearance and filed a motion to quash the writ of execution on the ground that it was directed upon the properties of Salvador Samson, while the judgment was against Celedonia Samson only.

Meanwhile, Celedonia Samson who arrived in the Philippines on October 12, 1978, filed a verified Omnibus Motion, asking the court to set aside the order of default, the judgment by default and all the subsequent proceedings on the ground that (a) the defendant and counsel were not duly notified of the January 17, 1978, pre-trial conference, (b) the ex-parte reception of plaintiff's evidence was null and void, and (c) the defendant had valid and meritorious defenses. (Expediente, pp. 114-125.)

In an Omnibus Order of May 15, 1979, the court, among other things, denied the separate motions of Wilfredo Samson and Celedonia Samson. (Expediente, pp. 138-140.) A joint motion for reconsideration (by the heirs of Salvador Samson and Celedonia Samson) was subsequently denied.

Thus, unable to find relief, Celedonia Samson, the heirs of Salvador Samson and the Bayside, Inc. elevated the matter to the Court of Appeals (in a petition for certiorari and prohibition with preliminary injunction, CA G.R. - 09800), which however dismissed the petition. (Rollo, pp. 189-198.)

As a last resort Celedonia Samson, the heirs of Salvador Samson and Bayside, Inc. have come to us.

In two separate resolutions, the parties (upon manifestation of their counsels) were granted 60 days within which to settle the case amicably. However, counsel for petitioners manifested that settlement seemed remote, (Rollo, p. 259-260) which prompted the private respondent to pray for a decision. (Rollo, p. 262.)

The case is before us on the sole issue which would foreclose discussion of other questions raised by petitioners, namely: whether or not the Samson spouses were denied due process when they were declared in default for non-appearance at the January 17, 1978, pre-trial conference.

Petitioners' main thrust is that Celedonia Samson was denied due process because she was declared in default, notwithstanding the fact that she and her counsel, Atty. Rodolfo Caluag, were not duly notified of the January 17, 1978 pre-trial conference.

On the other hand, the private respondent, in contending that the Samson spouses (as original defendants) and their counsel were duly notified, goes as far back as the pre-trial set for October 10, 1977, and to the postponements at the instance of Atty. Caluag. He claims that Atty. Caluag was served with notice of the January 17, 1978, pre-trial conference by registered mail, and that the Samsons were also served by registered mail at 1712 Roxas Blvd., Pasay City.

The records disclose that the order dated December 21, 1977, re-setting the pre-trial conference on January 17, 1978, was served by registered mail upon Atty. Caluag. The registry return receipt or card, attached to the copy of the order of December 21, 1977, indicates that he received it on January 17, 1978, which was the date of the pre-trial.

There is also this notation in handwriting, at the back of the copy of the order of December 21, 1977: "Reg. Mail 1/17/78, 1) Atty. B. Salvador, 2) Atty. Rodolfo M. Caluag, 3) Mr. Eduardo Figueras, and 4) Spouses Samson."

Noting the registry return receipt for Atty. Caluag and the notation at the back of the order of December 21, 1977, the Court of Appeals concluded that the Samsons and their counsels were duly served with notice; it attached the presumption of regularity in the performance of official duties to the trial court when it issued the order of default stating, among other things, that "there is no appearance for defendant, notwithstanding the fact that as indicated in the record they were duly notified."

We find the position of the petitioners tenable. For want of notice of pre-trial conference, Celedonia Samson was denied due process, and consequently, the validity of the order of default and all the proceedings that transpired subsequent thereto can not be sustained.

The only registry return card in respect of the pre-trial conference set for January 17, 1978, is the card attached to the back of the Order dated December 21, 1977. (Expe-diente, p. 36.) It shows that Atty. Caluag received the order on January 17, 1978. But such notice to counsel is patently irregular, having been served on him on the very day of the re-set pre-trial conference. As the petitioners contend, how could the order of default state that as indicated in the records, the defendants were duly notified, when the registry return card indicating service of notice on Atty. Caluag, could not have been with the court on January 17, 1978, since Atty. Caluag received it only on the same day.

Assuming that notice to counsel was not irregular, still such notice is neither adequate nor sufficient for purposes of pre-trial. It has been consistently held that notice of the pre-trial conference must be served not only upon the counsel but upon the party litigants as well. And before a party can be declared in default for failure to appear at the pre-trial, it must be shown that notice of pre-trial conference had been duly served upon both the party and

counsel.

But it can not be said that the Samson spouses were duly notified. The handwritten notation at the back of the order of December 21, 1977, to the effect that the order had been served on them cannot be deemed sufficient proof of notice by registered mail. There is no registry return card attached to the expediente to show service of the order. And in the case of Salvador Samson he could not have been served with notice by registered mail because he had long been dead.

It appears that the corresponding entries in the trial court's list of registered mail, and even in the official records of Pasay City Post Office we were missing. And so the parties hurl insinuation at each other. This only points to the absence of indubitable proof of the private respondent's assertion that the Samsons were duly served with notice of the pre-trial conference.

The mere fact that the January 17, 1978, pre-trial conference was a re-set, after some postponements at the instance of the defense counsel, cannot justify the absence of due notice because there is no proof that the defendants and their counsel were present in court when the order of December 21, 1977, was issued for otherwise it would not have been necessary for the court to order: "Notify the parties and their respective counsel accordingly."

From the allegations and counter-allegations of the parties in their respective pleadings, it would appear that no less than a full-dress hearing on the merits is necessary for a just and fair resolution of the issues. More so, when as it turned out, even non-parties became involved in the subsequent proceedings, something which could have been avoided if only the parties had been given opportunity to thresh out the issues in a full-dress trial.

WHEREFORE, the petition is granted, the decision of the Court of Appeals is reversed, and the order of default as well as all subsequent proceedings in the trial court are rescinded. The trial court shall initially resolve the motion to dismiss and set the case for pre-trial. Costs against the respondent.

SO ORDERED.

Barredo, (Chairman), Aquino, Concepcion, Jr., and De Castro, JJ., concur.

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.