

ALFONSO AFRICA, PETITIONER, VS. HONORABLE INTERMEDIATE APPELLATE COURT, HONORABLE RAFAEL T. MENDOZA, PRESIDING JUDGE, REGIONAL TRIAL COURT, NATIONAL CAPITAL REGION, BRANCH 134, ...

G.R. No. 76372. August 14, 1990

Ponente: FERNAN, C.J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-76372/>

FERNAN, C.J.:

In petitioner's own words: "This case started as a simple case of collection for a sum of money but took a bizarre turn in its procedural aspect." Well said indeed.

On August 9, 1979, petitioner Alfonso Africa entered into a "Grower's Agreement" with private respondent San Miguel Corporation (SMC). Under said agreement, SMC obligated itself to deliver to petitioner day-old broiler chicks while petitioner bound himself, for a consideration, to raise and care for the chicks for a period of eight (8) weeks after which the birds would be hauled back by SMC for processing at its plant in Ca-buyao, Laguna.[1]

That contract became the center of controversy between the parties. On February 20, 1984, SMC filed an action for a sum of money against petitioner, alleging that upon the maturity dates stipulated in the contract when the broilers should have been delivered back to SMC, petitioner instead diverted the flock and sold the same to third persons, to the prejudice of SMC which was deprived of P317,000.00 as of July 31, 1980, inclusive of unrealized profits plus legal interest counted from May 26, 1980.[2]

Petitioner did not deny having sold the grown chicks to third parties. However, he claimed that it was SMC which reneged on the terms of the contract by failing to haul the chicks on the specified maturity dates, thus compelling him to seek other buyers to avert great financial losses.

The case was set for pre-trial conference on June 18, 1984 at 8:30 a.m. Counsel for petitioner arrived late. Upon motion of counsel for SMC, petitioner was declared as in default and SMC was allowed to present its evidence ex parte in support of the corporation's allegations.[3] On the same day, June 18, 1984, petitioner's counsel promptly moved for the reconsideration of the order of default, and requested the clerk of court to set his motion for hearing on June 22, 1984.[4]

In his motion to lift the default order, counsel for petitioner recounted the following events to explain his late arrival at the pre-trial:

"1. That the instant case is set for pre-trial conference, today, June 18, 1984, at 8:30 a.m.;

"2. That the undersigned x x x arrived at the sala of this Honorable Court at exactly 8:45 a.m., and was informed that the case was called at 8:35 a.m., and that an Order was issued in Open Court declaring herein Defendant as in Default, authorizing the Plaintiff to present its evidence, ex-parte.

"3. That the failure of the undersigned to appear at exactly 8:30 a.m., was due to excusable negli-gence and/or

accident, amounting to fortuitous event in that:

“a) From experience, it takes this Representation forty (40) minutes to reach the sala of this Hon-orable Court, coming from his residence at 1398-G Mayha-ligue St., Tondo, Manila;

“b) That undersigned gave himself an allowance of One (1) hour to enable him to reach the sala of this Honorable Court and left his residence at exactly 7:10 a.m., thus expecting to be in Court at 8:10 a.m., (at the latest) thus having enough time to locate and be in Court room, on time for the hearing of this case;

“c) That undersigned encountered an unusually inundate streets on his way to this Court aggravated by the unexpected detour from his usual route to this Court thus compounding his predicament;

“d) Thus- the undersigned arrived at exactly 8:45 a.m., and while the other cases in the calendar of the Court are still being read, undersigned invited the attention of the Clerk of Court regarding his presence, he was informed that the case was called at 8:35 a.m., and accordingly, Defendant was declared as in default;

“ 4. That as can be seen from all the foregoing, the Defendant’s failure to be at the sala of this Hon-orable Court was due to excusable negligence and/or accident, amounting to fortuitous event; x x x .”[5]

Two days later, or on June 20, 1984, respondent Judge Mendoza issued the questioned decision, the dispositive part of which states:

“WHEREFORE, judgment is hereby rendered in favor of plaintiff (SMC) and against defendant (Africa) order-ing the latter:

“1. To pay plaintiff the sum of P317,000.00 plus 12% interest from June 13, 1980, the date of the letter of demand to defendant, until the same is fully paid;

“2. To pay plaintiff the sum of P32,000.00 for liquidated damages in accordance with the Grower’s Contract (Exhibit ‘A-7’);

“3. To pay P5,000.00 as and by way of attorney’s fees; and

“4. To pay the costs.”[6]

It was five days after the judgment of default was rendered when respondent Judge Mendoza acted on the June 18, 1984 motion by counsel for petitioner to set aside the order of default. In his order dated June 25, 1984, respondent judge denied the aforesaid motion.[7]

Petitioner then appealed to the then Intermediate Appellate Court raising as errors the order of default and the monetary award granted in favor of SMC.

The Appellate Court did not rule on the question regarding the order of default. It simply affirmed with modifications the decision of the trial court, thus:

“WHEREFORE, premises considered, the dispositive portion of the decision appealed from is modified to read as follows:

‘Wherefore, judgment is hereby rendered in favor of plaintiff and against defendant, ordering the latter:

‘1. To pay plaintiff the sum of P271,260.00 plus 12% interest from June 13, 1980, the date of the letter of demand to the defendant, until the same is fully paid;

‘2. To pay P5,000.00 as and by way of attorney’s fees; and

‘3. To pay the costs.’”[8]

Hence, this petition which seeks to annul and set aside the default judgment rendered by the trial court and the decision of the Appellate Court sustaining the same with modifications, on the ground that they were both rendered with grave abuse of discretion.

We rule for petitioner.

This Court has repeatedly warned against the injudicious and often impetuous issuance of default orders. In the case of *Continental Leaf Tobacco (Phil.) Inc. vs. Intermediate Appellate Court*,^[9] the Court explained why they should be discouraged:

“Since a judgment of default presupposes proceedings where the defendant is absent and cannot possibly present any evidence in his behalf, a court should use it with thoughtful hesitation only as a last expedient to induce the defendant to join issue upon the allegation tendered by the plaintiff. As early as 1913, the Supreme Court made this clear in *Coombs vs. Santos*^[10] because such a judgment cannot pretend to be based on the merits of the case.

“The records must be free from even the slightest suspicion that the trial court seized upon an opportunity either to free itself from the usual burdens of presiding over a fullblown court battle or worse, to give undue advantage or favors to one of the litigants. As pointed out in *Heirs of Fuentes vs. Macandog*^[11] default is not a mechanical gadget for the acceleration of the judicial litigation. An intent to terminate a case promptly is no excuse to cut corners and avoid the rules established to safeguard due process rights of litigants.”^[12]

In the instant case, petitioner was declared as in default on June 18, 1984 for his lawyer’s ten-minute delay at the pre-trial. That very day, the adverse party SMC was allowed to present its evidence *ex parte* even as counsel for petitioner was hurriedly preparing his motion to lift the order of default which motion he actually filed on June 18, 1984. After two days, a decision was rendered in favor of SMC and yet it was only five days later that respondent trial judge denied petitioner’s motion for reconsideration.

It is quite obvious that petitioner was denied his basic right to be heard, even after his counsel had promptly explained the reason for his tardiness at the pre-trial. As in the cited *Continental* case, which, interestingly enough, involved the very same respondent judge, it would seem that the proverbial wheels of justice literally “oversped”. For an innocuous delay of ten minutes, petitioner was ultimately denied due process of law which could have, had respondent judge been in a less hurry to clear his docket, enabled him to present his defenses against SMC’s claim that he had breached their agreement.

While it is desirable that the Rules of Court be faithfully observed, courts should not be obsessively strict over the occasional lapses of litigants. Given a good reason, the trial court should set aside its order of default, constantly bearing in mind that it is the exception and not the rule of the day. A default order must be resorted to only in clear cases of obstinate refusal or inordinate neglect to comply with the orders of the court.^[13]

WHEREFORE, the petition for review is granted. The decision of the Appellate Court in CA-G.R. No. CV-04600 and the judgment by default of the trial court in Civil Case No. 6477 are hereby annulled and set aside. The case is remanded to the Regional Trial Court of Rizal, Branch 134 (Makati), for further hearing and reception of petitioner’s evidence.

So ordered.

Gutierrez, Jr., Feliciano, Bidin, and Cortes, JJ., concur.

[1] Annex A, Records, p. 4.

[2] Civil Case No. 6477.

[3] Records, pp. 43-44.

[4] Ibid, pp. 45-46.

[5] Ibid.

[6] Records, p. 51; Rollo, p. 43.

[7] Records, p. 57.

[8] Rollo, p. 40.

[9] G.R. No. 69243, November 22, 1985, 140 SCRA 269, 274.

[10] 24 Phil. 446.

[11] 83 SCRA 648

[12] Underscored supplied.

[13] See *Leyte Spouses vs. Cusi, Jr.*, No. L-31974, July 31, 1987, 152 SCRA 496; *National Investment and Development Corporation vs. Court of Appeals, et al.*, G.R. No. 81788, December 15, 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.