

NOSTRAM LABORATORIES, INC., PETITIONER, VS. HON. COURT OF APPEALS AND STAR PAPER CORPORATION, RESPONDENTS.

G.R. No. 97339. December 14, 1992

Ponente: GRIÑO-AQUINO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-97339/>

GRIÑO-AQUINO, J.:

This is an appeal by certiorari from the decision of the Court of Appeals in CA-G.R. CV No. 21021 reversing the decision of the Regional Trial Court of Quezon City, Branch 87, in an action of the petitioner, Nostram Laboratories, Inc., to recover a sum of money with damages against the private respondent, Star Paper Corporation.

On October 23, 1985, the petitioner ordered and purchased from the private respondent P11,070.00 worth of Kodak films, size 24" x 30". Petitioner's president, Angel Montenegro, Jr., personally picked up the order from private respondent's office but upon opening the box inside his dark room, he discovered that the Kodak films were not the correct size that he had ordered. Instead of size 24" x 30", the box contained size 20" x 30" Kodak films.

The next day, Montenegro phoned the private respondent and was able to speak with the saleslady, Natividad Barlin. He informed her that the films she gave him were not size 24" x 30" but 20" x 30". Ms. Barlin allegedly answered that size 24" x 30" was out of stock. She requested Montenegro to accept the films and assured him that she would refund the price difference of P3,320.00. Rejecting that proposition, Montenegro returned the films on October 25, 1985. According to Montenegro, upon receipt of the box of films, Barlin opened the box to inspect the films, and thereby exposed them to the light. Realizing her mistake, Barlin re-turned the package to him and refused to make any refund.

Petitioner filed in the Regional Trial Court of Quezon City, Branch 87, an action to recover the purchase price of P11,070.00 with interest, plus P15,000.00 as unrealized profits and attorney's fees and costs.

In its defense, the private respondent alleged that it was the petitioner that damaged the films by opening not only the outer box of the individual films but also the inner plastic wrapper which served as protective cover for the sensitive and delicate Kodak films. Private respondent further alleged that Montenegro was to blame for failing to inspect the box of films before accepting and paying for them.

The trial court ruled in petitioner's favor. However, on appeal by the private respondent, the Court of Appeals reversed the trial court. The appellate court observed that the petitioner failed to present in evidence the damaged and undersized films which constituted "real evidence" of the allegedly damaged condition of the films. Citing Section 3(e), Rule 131 of the Revised Rules of Court which provides that "the presumption is that evidence willfully suppressed would be adverse if produced," the appellate court believed the private respondent's assertion that the petitioner may have used the films, for, otherwise, it should have produced them at the trial.

On the other hand, the petitioner contended that it was not necessary to produce the films to prove that they were

damaged, because the private respondent's witness, Ms. Barlin, made an admission to that effect. Pursuant to Section 2, Rule 129 of the Rules of Court, "admissions made by the parties in the pleadings, or in the course of the trial or other proceedings do not require proof and can not be contradicted unless previously shown to have been made through palpable mistake."

The admission adverted to is found in the follow-ing testimony of Ms. Barlin:

"Q - Miss Barlin, what size of Kodak film that was ordered and purchased by the plaintiff from your company on October 23, 1985?

"A - The size of 24 x 30.

"Q - Showing you this Exhibit A, Miss Barlin, and this is the official invoice of your corporation, isn't it?

"A - Yes sir.

"Q - And the size of the film that was ordered and paid for by the plaintiff, also with the size of 24 x 30, isn't it?

"A - Yes, sir.

"Q - And the amount paid by the plaintiff for that particular product with size 24 x 30 also?

"A - Yes sir.

"Q - and the film that was given by your company was with the size shorter than what he has ordered, isn't it?

"A - Yes, sir." (p. 7, Rollo.)

Since the private respondent, through its witness, Ms. Barlin, admitted only that it delivered to the petitioner the shorter film, size 20" x 30", but did not admit that she damaged the films by exposing them to the light, the petitioner had the burden of proving that the films were indeed damaged and became unusable. Since the petitioner failed to discharge that burden of proof, the Court of Appeals was justified in assuming that the petitioner did not produce the films in court because it made use of them.

Nevertheless, the appellate court erred in dismissing the petitioner's complaint. The films that the private respondent delivered to the petitioner were admittedly not the correct size. The petitioner is therefore entitled to recover the price difference of P3,320.00.

WHEREFORE, the petition for review is GRANTED. The decision of the Court of Appeals is modified by ordering the private respondent to pay to the petitioner the price difference of P3,320.00 between the size 24" x 30" films which the petitioner ordered and the size 20" x 30" films which it received from the private respondent, with legal rate of interest from October 23, 1985 until fully paid, plus reasonable attorney's fees in the sum of P3,000.00 and the costs.

SO ORDERED.

Cruz, (Chairman), Padilla, and Bellosillo, 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.