

## SPECIAL THIRD DIVISION

[ G.R. No. 124267, August 18, 2004 ]

### NATIONAL COMMERCIAL BANK OF SAUDI ARABIA, PETITIONER, VS. COURT OF APPEALS AND PHILIPPINE BANKING CORPORATION, RESPONDENTS.

#### R E S O L U T I O N

By Decision of January 31, 2003, this Court, finding no persuasive reason for the relaxation of the rules of procedure, declared the motion for reconsideration filed by private respondent Philippine Banking Corporation (PBC) before the trial court, which lacked the requisite notice of hearing, a mere scrap of paper and of no legal effect. PBC now seeks a reconsideration of the Decision.

The antecedents of the case are as follows:

Petitioner National Commercial Bank of Saudi Arabia (NCBSA) filed on December 4, 1985 a case against PBC before the Regional Trial Court (RTC) of Makati to recover "the duplication in the payment of the proceeds of a letter of credit [NCBSA] ha[d] issued . . . brought about by the fact that both the head office and the Makati branch of [PBC, the negotiating bank,] collected the proceeds of the letter of credit."  
[1]

On August 24, 1993, Branch 134 of the RTC of Makati rendered a decision in favor of NCBSA, a copy of which was received by PBC on September 3, 1993. On the 12<sup>th</sup> day of the 15-day period to appeal or on September 15, 1993, PBC filed a Motion for Reconsideration<sup>[2]</sup> of the decision which, however, did not contain a notice of hearing.<sup>[3]</sup>

On September 27, 1993, or twenty four days from its receipt of the decision and nine days after the period to file appeal had expired, PBC filed a "Motion to Set 'Motion for Reconsideration' for Hearing"<sup>[4]</sup> alleging as follows:

x x x

2. The Motion for Reconsideration raised both questions of facts and law arising from the erroneous findings made by the Honorable Court in the said Decision.
3. In order that defendant can fully amplify and expound on the issues raised on the said motions, there is a need to set the Motion for Hearing.<sup>[5]</sup>

The trial court, by Order<sup>[6]</sup> of February 1, 1994, declared PBC's Motion for Reconsideration a "useless piece of paper" for failure to observe the 3-day notice

rule, and the same was struck from the records of the case.<sup>[7]</sup> PBC filed a Motion for Reconsideration<sup>[8]</sup> of said order, this time alleging that PBC's failure to comply with the 3-day notice rule "was essentially an honest mistake or oversight of counsel."<sup>[9]</sup> The motion was likewise denied by a Resolution<sup>[10]</sup> of March 2, 1994 for want of any "compelling reason to warrant a liberal construction of the rules of Motions."<sup>[11]</sup> PBC then assailed the trial court's March 2, 1994 Order before the Court of Appeals via Petition for *Certiorari*.

The Court of Appeals dismissed PBC's Petition for *Certiorari* by Decision<sup>[12]</sup> of February 27, 1995. On PBC's Motion for Reconsideration, however, the appellate court, by Amended Decision<sup>[13]</sup> of March 8, 1996, set aside its February 27, 1995 Decision and directed the trial court to resolve PBC's Motion for Reconsideration (of the trial court's August 24, 1993 Decision) on the following justification:

. . . [T]o deny petitioner's motion for reconsideration on the ground of failure to contain a notice of hearing is too harsh an application of procedural rules especially so when petitioner has filed a motion to set the motion for reconsideration for hearing and had furnished private respondent a copy of the motion, a fact which is not denied by the latter.<sup>[14]</sup> (Underscoring supplied)

NCBSA thus filed a Petition for Review<sup>[15]</sup> before this Court raising as sole error the following:

The Court of Appeals erred in reversing its original decision and in not ruling that the decision of the Regional Trial Court of Makati had become final, since the Motion for Reconsideration Respondent Bank filed did not contain any notice of hearing.<sup>[16]</sup>

NCBSA maintained that (1) since the Motion for Reconsideration of PBC did not contain a notice of hearing, it is a worthless scrap of paper, (2) the fatal defect of the Motion for Reconsideration was not cured by the filing of a "Motion to Set the 'Motion for Reconsideration' for Hearing," and (3) the finality of the decision of the trial court cannot be set aside on the basis of a plea for liberality.

In its Comment,<sup>[17]</sup> PBC countered that a liberal interpretation of the rules is in order because there are several issues which warrant a "second hard look" by the trial court, *to wit*, (1) prescription of cause of action, (2) estoppel by laches, and (3) absence of double payment.<sup>[18]</sup>

Finding for NCBSA, this Court, by Decision of January 31, 2003, now the subject of the present Motion for Reconsideration, set aside the Amended Decision of the Court of Appeals and declared the Motion for Reconsideration of PBC filed before the RTC as *pro forma* on two grounds: (1) the absence of a notice of hearing and (2) the issues raised therein were mere reiteration of reasons and arguments raised before the trial court which were already passed upon on the merits. Ruled this Court:

The requirement of notice under Sections 4 and 5, Rule 15 in connection with Section 2, Rule 37 of the Revised Rules of Court is mandatory. The absence of a notice of hearing is fatal. x x x

In an attempt to cure the defect, PBC filed a Motion to Set the "Motion for Reconsideration" for Hearing on September 27, 1993, or 9 days after the period for filing the Notice of Appeal had elapsed.

The motion for reconsideration, however, being fatally defective for lack of notice of hearing, cannot be cured by a belated filing of a notice of hearing. More so in the case at bar where the Motion to Set the "Motion for Reconsideration" was filed **after** the expiration of the period for filing an appeal.

NCBSA thus calls for a strict application of our rules of procedure to avoid further delays in the disposition of the case which has remained pending for more than 17 years.

PBC, on the other hand, invokes a just and fair determination of the case.

PBC's appeal for justice and fairness does not lie, however, there being nothing on record to show that it has been a victim of injustice or unfairness. On the contrary, as found by the Court of Appeals in its original decision, PBC had the opportunity to participate in the trial and present its defense and had actually made full use of the remedies under our rules of procedure. More importantly, there was no oppressive exercise of judicial authority that would call for the annulment of the trial court's resolutions.

The finality of the decision of the trial court cannot be set aside purely on the basis of liberality for while it is true that a litigation is not a game of technicalities, this does not mean that the Rules of Court may be ignored at will and at random. Only for the most persuasive of reasons should the court allow a relaxation of its procedural rules.<sup>[19]</sup> (Emphasis in the original; underscoring supplied)

PBC now moves for a reconsideration of this Court's decision on the following grounds:

The finality and execution of the Trial Court's Decision shall result in manifest injustice to Private Respondent.<sup>[20]</sup>

The 31 January 2003 Decision's discussion, *en passant*, of the merits of the case, with all due deference, is contrary to existing and latest jurisprudence on the matter.<sup>[21]</sup>

The resolution of PBC's motion hinges on the issue of whether there exists a persuasive reason to justify the relaxation of the Rules of Procedure.

**For the first time**, PBC raises the correctness of the trial court's ruling that the interest on the principal amount of \$971,919.75 will run from 1975<sup>[22]</sup> when the double payment was "allegedly" received,<sup>[23]</sup> which is at least 9 years earlier than NCBSA's earliest demand for payment made in October 1985.<sup>[24]</sup>

While PBC had previously raised the issue of interest, it limited its argument to the