



Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated March 2, 2022 which reads as follows:*

**“G.R. No. 257464 (BPI Globe BankO, Inc. A Savings Bank v. Countryside Multi-Line Cooperative, et al.).** – Before this Court is a *Petition for Certiorari*<sup>1</sup> dated August 23, 2021 filed by petitioner BPI Globe BankO, Inc. (petitioner). The *petition* questions the *Decision*<sup>2</sup> dated December 13, 2019 and the *Resolution*<sup>3</sup> dated July 19, 2021 by the Court of Appeals (CA), which affirmed *in toto* the *Orders*<sup>4</sup> dated May 22, 2018<sup>5</sup> and November 14, 2018<sup>6</sup> of the Regional Trial Court of Pasig City (San Juan City station), Branch 160.

As stated by the CA, the factual antecedents of this case are as follows:

[Petitioner] BPI Globe Banko, Inc. A Savings Bank filed a *Complaint* against [respondents] Countryside Multi-Line Cooperative, Danilo A. Cereno, Renante Z. Cano, Erlinda C. Ilustre and Senen A. Jerez for Sum of Money in the total amount of P58,452,140.07, representing unpaid promissory notes. In its *Answer with Counterclaim*, [respondents] admitted contracting the obligations, but alleged that the amount is not correct and the interest imposed is unreasonable.

Since the parties failed to arrive at an amicable settlement, the trial court set the case for pre-trial conference on March 19, 2018. Both parties timely filed their pre-trial briefs.

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<sup>1</sup> *Rollo*, pp. 3-20.

<sup>2</sup> *Id.* at 141-148; Penned by Associate Justice Ma. Luisa C. Quijano-Padilla, with Associate Justices Zenaida T. Galapate-Laguilles and Gabriel T. Robeniol, concurring.

<sup>3</sup> *Id.* at 151-158; Penned by Associate Justice Zenaida T. Galapate-Laguilles, with Associate Justices Gabriel T. Robeniol and Florencio Mallanao Mamauag, Jr., concurring.

<sup>4</sup> *Id.* at 141.

<sup>5</sup> *Id.* at 142.

<sup>6</sup> *Id.*

However, the scheduled pre-trial conference on March 19, 2018 was reset to May 22, 2018 as the Acting Presiding Judge was indisposed.

On May 22, 2018, [petitioner] and its counsel failed to appear, while the [respondents'] counsel appeared without a written authority to enter into an amicable settlement, to submit to alternative modes of dispute resolution and to enter into stipulations or admissions of facts and documents during the pretrial.

In its assailed *Order* dated May 22, 2018, the RTC dismissed the complaint for failure to prosecute on account of [petitioner's] failure to appear during pre-trial, thus:

For failure of the parties to appear in court except Atty. Godofredo de Guzman, counsel for the defendants who is not authorized to enter into pre-trial conference, the complaint and counterclaim are dismissed for failure to prosecute.

**SO ORDERED.**

[Petitioner] filed a motion for reconsideration, wherein its counsel alleged that he was unable to attend because a virus destroyed his phone, which contained his calendar. Said motion was denied by the RTC in its *Order* dated November 14, 2018.<sup>7</sup>

Aggrieved, petitioner interposed an appeal before the CA to challenge the *Orders* dated May 22, 2018 and November 14, 2018 of the Regional Trial Court. However, as previously mentioned, in a *Decision* dated December 13, 2019,<sup>8</sup> the CA found the appeal to be without merit; thus:

**WHEREFORE**, premises considered and subject to the above disquisitions, the *appeal* is **DENIED**. The *Order* dated May 22, 2018 and the *Order* dated November 14, 2018 of the Regional Trial Court Branch 160, Pasig City (San Juan City Station), are hereby **AFFIRMED**.

**SO ORDERED.**<sup>9</sup>

In ruling in favor of the respondents, the CA characterized the failure of petitioner to appear during the pre-trial conference as "inexcusable negligence." The court *a quo* stressed that the excuse that a virus that affected petitioner's counsel's mobile phone calendar

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<sup>7</sup> Id. at 141-142.

<sup>8</sup> Id. at 141-148.

<sup>9</sup> Id. at 148.

which, in turn, prevented petitioner's counsel from attending pre-trial, is an "implausible reason". Petitioner moved for reconsideration of the *Decision*, which was denied by the CA in a *Resolution* dated July 19, 2021.<sup>10</sup>

Hence, the instant appeal.

At the very outset, and as shall be elaborated below, this Court denies giving the *Petition* due course for utter lack of merit. However, this Court's denial of the *Petition* is without prejudice to the refile of the same.

Under the Rules of Court, it is explicitly stated that pre-trial is mandatory for all civil cases.<sup>11</sup> It is not a "technicality" that can be easily brushed off. Thus, in *The Philippine American Life & General Insurance Company v. Enario*,<sup>12</sup> citing the case of *United Coconut Planters Bank v. Magpayo*,<sup>13</sup> this Court emphasized that "pre-trial cannot be taken for granted. It is not a mere technicality in court proceedings for it serves a vital objective: the simplification, abbreviation and expedition of the trial, if not indeed its dispensation."

The mandatory character of pre-trial conferences is underscored by the fact that litigants and their respective counsel are enjoined to appear the same.<sup>14</sup> Failure to abide by this express command carries severe consequences.<sup>15</sup> In particular, for the plaintiff, the failure to attend the pre-trial conference makes the action initiated susceptible to dismissal with prejudice.<sup>16</sup> Exceptionally, however, should the failure of the plaintiff to appear is for a "valid cause", such absence may be excused.<sup>17</sup>

In this case, the petitioner does not deny failing to attend the mandatory pre-trial conference.<sup>18</sup> Nevertheless, petitioner proffers the excuse that its failure to attend was due to a virus which destroyed his counsel's phone, including his calendar.<sup>19</sup> Differently stated, petitioner claims that his and his counsel's failure to attend was due to a virus

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<sup>10</sup> Id. at 151-156.

<sup>11</sup> Section 2, Rule 18, Rules of Court.

<sup>12</sup> 645 Phil. 166, 176 (2010).

<sup>13</sup> 473 Phil. 739, 746 (2004).

<sup>14</sup> Section 4, Rule 18, Rules of Court.

<sup>15</sup> Section 5, Rule 18, Rules of Court.

<sup>16</sup> Id.

<sup>17</sup> *Supra* note 2.

<sup>18</sup> *Rollo*, p. 11.

<sup>19</sup> Id. at 142.

which deleted the mobile calendar of the latter. As such, the mobile device was unable to notify or remind its counsel of the upcoming pre-trial conference. This circumstance, according to petitioner, amounts to “excusable negligence” which should have coaxed the trial court to not dismiss the case outright.<sup>20</sup>

Unfortunately, petitioner failed to offer evidence to prove its excuse. This is a regrettable omission since case law provides that the existence of excusable negligence must be proven by sufficient and competent evidence.<sup>21</sup> As such, this Court is constrained to not give credence to the excuse offered by petitioner.

Nevertheless, even if such evidence were submitted, this Court will still be unable to characterize petitioner’s omission as “excusable negligence”. In *Lui Enterprises, Inc. v. Zuellig Pharma Corp., et al.*,<sup>22</sup> this Court defined excusable negligence as “one which ordinary diligence and prudence could not have guarded against.” Pertinently, as observed by the CA, the counsel for petitioner was “personally notified that the pre-trial conference was reset to May 22, 2018, as evidenced by the *Minutes* dated March 19, 2018, which bears his signature.”<sup>23</sup> This circumstance is not inconsequential. While this Court is not prepared to accept the CA’s disquisition that counsel for petitioner should have remembered the precise date of the re-scheduling of the pre-trial conference,<sup>24</sup> its counsel, at the very least, should have been able to remember that a pre-trial conference was scheduled sometime in May 2018. Indeed, had the counsel for petitioner been able to remember this detail, it would have been easy to inquire with the relevant court the exact date of the re-scheduled pre-trial conference. Additionally, ordinary prudence dictates that counsel for petitioner, an in-house counsel for a subsidiary of one of the country’s biggest and most digitally savvy financial institution, could have easily backed-up the data of his mobile device digitally, or could have otherwise written it down in pen and paper. This is not an unreasonable expectation given the near ubiquity of threats to the integrity of our mobile and digital systems in this day and age.

Moreover, the excuse offered by petitioner only explains the absence of its counsel. It fails to explain why petitioner—through a duly authorized representative—failed to appear during pre-trial conference.

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<sup>20</sup> Id. at 12.

<sup>21</sup> 469 Phil. 1020, 1039 (2004).

<sup>22</sup> 729 Phil. 440, 472 (2014).

<sup>23</sup> *Rollo*, p. 146.

<sup>24</sup> Id.

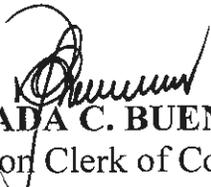
Notwithstanding the foregoing, this Court finds that considering the amount involved, as well as the fact that petitioner has established a *prima facie* meritorious cause of action, and the fact that private respondents themselves did not comply with the dictates of Rule 18 of the Rules of Court when their counsel appeared “without a written authority to enter into an amicable settlement, to submit to alternative modes of dispute resolution, and to enter into stipulations or admissions of facts and of documents”,<sup>25</sup> the interest of substantial justice would be best served if the rejection of petitioner’s *Petition* is without prejudice to the re-filing of its *Complaint* with the appropriate Regional Trial Courts.

**WHEREFORE**, premises considered, the *Petition for Certiorari* dated August 23, 2021 is denied for lack of merit.

In the interest of substantial justice, the *Decision* dated December 13, 2019 and the *Resolution* dated July 19, 2021 of the Court of Appeals which affirmed *in toto* the *Orders* dated May 22, 2018 and November 14, 2018 of the Regional Trial Court are **MODIFIED** insofar as the dismissal of petitioner’s *Complaint* is without prejudice to the re-filing of the same.

**SO ORDERED.”**

**By authority of the Court:**

  
**LIBRADA C. BUENA**  
Division Clerk of Court *151*

by:

**MARIA TERESA B. SIBULO**  
Deputy Division Clerk of Court

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<sup>25</sup> Id. at 142.



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(Civil Case No. 75252-SJ)

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