

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT  
EN BANC**

**REPARATIONS COMMISSION,  
*Plaintiff-Appellee,***

***-versus-***

**G.R. No. L-24835  
July 31, 1970**

**NORTHERN LINES INC., and  
FIELDMEN'S INSURANCE COMPANY,  
INC.,**

***Defendants-Appellants.***

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**DECISION**

**CONCEPCION, J.:**

This appeal, taken by the Northern Lines, Inc., and Fieldmen's Insurance Co., Inc., from a decision of the Court of First Instance of Manila in Cases Nos. 50194 and 51542 thereof; which were jointly tried and disposed of, has been certified to Us by the Court of Appeals, questions purely of law having been raised in the appeal.

It appears that, pursuant to Rep. Act No. 1789, the Reparations Commission — hereinafter referred to as the Commission — had awarded two (2) vessels to the Northern Lines Inc., a corporation organized and existing under the Philippine law — hereinafter referred to as the Buyer — for use in the interisland shipping.

According to the schedules of payment agreed upon between the parties, complete delivery of one of the vessels — the M/S Magsaysay, later named M/S Don Salvador — took place on April 25, 1960, and that of the other — the M/S Estancia, later named M/S Don Amando — on May 26, 1960. These vessels were the object of separate deeds of conditional purchase and sale of reparations goods, executed by the Commission, as vendor, and the Buyer, as vendee, the first dated September 12, 1960, and the second October 20, 1960. In conjunction with these contracts and in line with the provisions thereof Surety Bonds Nos. 3825 and 4123 were executed, on April 25, 1960 and May 30, 1960, respectively, by the Buyer, as principal, and the Fieldmen's Insurance Co., as surety, in favor of the Commission, to guarantee the faithful compliance by the Buyer of its obligations under said contracts. The Buyer undertook therein to pay for said vessels the installments specified in a schedule of payments, appended to each contract. The schedule for the M/S Don Salvador (ex-M/S Magsaysay) reads as follows:

“NAME OF END-USER:	NORTHERN LINES, INC.
“ADDRESS:	480 Padre Faura, Ermita, Manila
“NATURE OF CAPITAL GOODS/SERVICES:	One (1) Vessel 'M/S MAGSAYSAY' divested of the cannery plant
“DATE OF COMPLETE DELIVERY:	April 25, 1960
“TOTAL F.O.B. COST:	P1,747,614.22
“AMOUNT OF 1 <sup>ST</sup> INSTALLMENT:	(10% OF F.O.B. COST) P174,761.42
“DUE DATE OF 1 <sup>ST</sup> INSTALLMENT:	April 25, 1962
“TERM:	TEN (10%) EQUAL YEARLY INSTALLMENTS
“RATE OF INTEREST:	THREE PERCENT (3%) PER ANNUM

<b>"NO. OF INSTALLMENTS</b>	<b>DATE DUE</b>	<b>AMOUNT</b>
1	April 25, 1963	P184,386.34
2	" " 1964	184,386.34
3	" " 1965	184,386.34
4	" " 1966	184,386.34
5	" " 1967	184,386.34
6	" " 1968	184,336.34
7	" " 1969	184,386.34
8	" " 1970	184,386.34
9	" " 1971	184,386.34
10	" " 1972	184,386.34"

whereas that for M/S Don Amando (ex-M/S Estancia) was of the following tenor:

"NAME OF END-USER:	NORTHERN LINES, INC.
"ADDRESS:	480 P. Faura, Ermita, Manila
"NATURE OF CAPITAL GOODS/SERVICES:	One vessel 'M/S Estancia' Divested of the Cannery Plant
"DATE OF COMPLETE DELIVERY:	May 26, 1960
"TOTAL F.O.B. COST	P1,747,614.22
"AMOUNT OF 1 <sup>ST</sup> INSTALLMENT:	(10% OF F.O.B. COST) P174,761.42
"DUE DATE OF 1 <sup>ST</sup> INSTALLMENT:	May 26, 1962
"TERM:	Ten (10) EQUAL YEARLY INSTALLMENTS
"RATE OF INTEREST:	THREE PERCENT (3%) PER ANNUM

<b>“NO. OF INSTALLMENTS</b>	<b>DATE DUE</b>	<b>AMOUNT</b>
1	May 26, 1963	P184,386.34
2	“ “ 1964	184,386.34
3	“ “ 1965	184,386.34
4	“ “ 1966	184,386.34
5	“ “ 1967	184,386.34
6	“ “ 1968	184,386.34
7	“ “ 1969	184,386.34
8	“ “ 1970	184,386.34
9	“ “ 1971	184,386.34
10	“ “ 1972	184,386.34

On April 24, 1962, and May 26, 1962 — or one day before the stated due date of the first installment for M/S Don Salvador (ex-M/S Magsaysay), and on the stated due date of the first installment as to M/S Don Amando (ex-M/S Estancia) — the Buyer instituted Civil Cases Nos. 50194 (regarding M/S Don Salvador, formerly Magsaysay) and 50488 (regarding M/S Don Amando, formerly Estancia) of the Court of First Instance of Manila to secure, by way of declaratory relief, a declaration to the effect that the first installments under the aforementioned contracts would be due and demandable on April 25, 1963 and May 26, 1963, respectively. Soon thereafter, or on September 10, 1962, the Commission commenced Civil Case No. 51542 of the same Court, against the Buyer and the Surety. The Commission alleged — in two separate causes of action set forth in the complaint therein — that, despite repeated demands, the defendants (Buyer and Surety) had refused to pay the first installments of P174,761.42 each, that had become due and demandable on April 25 and May 26, 1962, respectively. Hence, it prayed that the Buyer and the Surety be sentenced to pay, jointly and severally, to the Commission the aggregate sum of P349,522.84, with interest thereon at the legal rate, in addition to attorney’s fees and the costs.

In its answer to the complaint, the Buyer admitted some allegations and denied other allegations thereof, and, by way of special defense, averred that the Commission has no cause of action until Civil Cases Nos. 50488 and 50194 shall have been decided. The Surety’s answer

contained similar admissions and denials, apart from adopting as its own those made in the Buyer's answer, and set up a cross-claim against the Buyer, for reimbursement of whatever the Surety may have to pay to the Commission by reason of its complaint, including interests, and for the sum P10,541.63 "representing unpaid premiums and documentary stamps due on the two bonds" above-mentioned, plus attorney's fees and interests.

Subsequently, or on October 29, 1962, Branch XIII of the Court of First Instance of Manila dismissed Case No. 50488 — involving the M/S Don Amando or Estancia—whereupon the Buyer appealed to this Court, where the case was docketed as L-20725. The same was, however, dismissed July 2, 1963, for failure of the Buyer, as appellant therein, to file its brief within the reglementary period. In due course thereafter, or on April 30, 1964, Branch VII of said Court of First Instance rendered, in Cases Nos. 50194 — regarding M/S Don Salvador or Magsaysay — and 51542 — the action filed by the Commission — which had been jointly tried, a decision dismissing the petition for a declaratory relief in Case No. 50194, with costs against the Buyer, as petitioner therein, and: (a) sentencing the Buyer and the Surety, as defendants in Case No. 51542, to pay jointly and severally, to the Commission, the sum of P174,761.42, under each of the two (2) causes of action alleged in the complaint, with interest thereon at the legal rate, from the date of the filing of the complaint, until fully paid — although the liability of the Surety under each cause of action was not to exceed P174,761.42 — and the sum of P1,000 as attorney's fees, apart from the costs; (b) ordering the Buyer to reimburse the Surety "whatever amount it may pay to the Reparations Commission, with interest at the rate of 12% per annum"; and (c) sentencing the Buyer to pay the Surety the sum of P10,641.68, representing unpaid premiums and documentary stamps, with interest thereon at the legal rate and P300, by way of attorney's fees. A reconsideration of this decision having been denied, the Buyer and the Surety appealed to the Court of Appeals, which later certified the appeal to this Court.

The Buyer alleges that the trial court erred: (1) in interpreting the contracts in question in favor of the Commission, which drafted the same; (2) in not interpreting said contracts "in such a manner as to prevent inconsistency and absurdity;" (3) "in not taking into account the delay in the use of the goods subject-matter of the contracts in

question in interpreting the latter;” (4) in not holding that the action filed by the Commission (Case No. 51542) is “barred” by the actions for declaratory judgment filed by the Buyer (Civil Cases Nos. 50194 and 50488); and (5) in rendering judgment for the Commission and the Surety “on their main claims, interest, attorney’s fees and costs.”

The Surety, in turn, contends that the trial court erred: (1) in declaring that the first installments of the purchase price “became due on April 25, 1962 and May 26, 1962, respectively;” (2) in holding the Surety jointly and severally liable with the Buyer to pay to the Commission the two first installments of said purchase price under FICI Surety Bonds Nos. 3825 and 4123; (3) in not holding the Commission liable to pay the Surety “nominal damages, attorney’s fees and costs”; and (4) in not ordering the Buyer to pay to the Surety “attorney’s fees equivalent to 20% of the amount which the latter may pay” to the Commission by reason of the judgment in its favor.

1. The main issue for determination in this appeal is that raised in the Buyer’s first three (3) assignments of error and in the Surety’s first assignment of error, namely: when did the first installment under the two (2) contracts become due?

The Buyer states that “in both contracts two due dates are given for the respective first installments. In the case of M/S ‘Don Salvador,’ April 25, 1962, and April 26, 1963; while in the case of M/S ‘Don Amando,’ May 26, 1962, and May 26, 1963. The question is, which are the correct due dates intended by the parties? The defendant-appellant” — the Buyer — “claims that they are the second and later dates given, while the plaintiff-appellee” — the Commission — claims that they are the first and earlier dates.” His Honor, the trial Judge, sustained the latter contention.

In support of its claim, the Buyer argues that there is an ambiguity in said contracts, with should be resolved against the Commission, “because it is the latter who caused the ambiguity”; that otherwise, “there would result an inconsistency and absurdity,” because the contracts provide for ten (10) equal yearly installments, but, under the theory of the Commission, there would be two (2) first unequal installments, one for

P174,761.42 and another for P184,386.34, and the latter would be followed by nine (9) yearly installments each for P184,386.34, which, together with the first two (2), would aggregate eleven (11) installments, instead of ten (10). This contention is manifestly untenable.

- (a) The major premise in appellants' process of reasoning is that the installments due on April 25, 1963, and May 26, 1963, are "first" installments, although they are not so designated in the schedule appended to each of the contracts between the parties. Appellants, moreover, assume that the "first" installment is included in the "ten (10) equal yearly installments" mentioned subsequently to said "first" installment. In fact, however, only one installment is labelled as "first" in each one of said schedules, and that is the installment due on "April 25, 1962" — as regards M/S Don Salvador or Magsaysay—and that due on "May 26, 1962" — as regards M/S Don Amado or Estancia. The schedules do not describe the "ten (10) equal yearly installments" — following the one characterized therein as "first" — as first, second, third, etc. installments — meaning "number," not order or sequence, of installments—and the numerals 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 written before each one of said "ten (10) equal yearly installments." It is true that the one therein numbered "1" is, in fact, the first, in the list of "ten (10) equal yearly installments" following the "first," to accrue after the due date of said "first" installment. Just the same, the parties have not so described (as "first") — in the schedules forming part of their contracts — the installments numbered "1" in the list contained in each. Moreover, considering that the words "TERM: Ten (10) EQUAL YEARLY INSTALLMENTS," appear after the lines reading: "AMOUNT OF ITS INSTALLMENT (10% OF F.O.B. COST) P174,761.42" and "DUE DATE OF 1ST INSTALLMENT April 25, 1962" (or May 26, 1962), and that, subsequently to said "TERM: Ten (10) EQUAL YEARLY INSTALLMENTS," there is a list of ten (10) equal yearly installments, it is clear that the latter do not include the one designated as "first" installment.

It is well settled that laws and contracts should be so construed as to harmonize and give effect to the different provisions thereof.<sup>[1]</sup> Upon the other hand, the interpretation insisted upon by the Buyer and the Surety, would, not only create the “contradictions” or “absurdities” they point out — and which, admittedly, should be avoided — but, also, render meaningless and set at naught the provisions in said schedules to the effect that the “amount of (the) 1<sup>st</sup> installment” is “P174,761.42,” and that the “due date of 1<sup>st</sup> installment” would be April 25, 1962,” as regards the M/S Don Salvador or Magsaysay, and “May 26, 1962,” as regards the M/S Don Amando or Estancia. In fact, the Buyer maintains that these provisions should be “treated as surplusage” and, hence, disregarded or ignored. Incidentally, thus reveals the inherent infirmity of the theory advanced by the Buyer and the Surety.

- (b) The pertinent part of Section 12 of Rep. Act No. 1789, pursuant to which the vessels in question were sold to the Buyer, reads:

“Capital goods disposed of to private parties as provided for in subsection (a) of Section two hereof shall be sold on a cash or credit basis, under rules and regulations as may be determined by the Commission. Sales on a credit basis shall be payable in installments: Provided, That the first installment shall be paid within twenty-four months after complete delivery of the capital goods and the balance within a period not exceeding ten years, plus the service provided for in section ten hereof: Provided, further, That the unpaid balance of the price thereof shall bear interest at the rate of not more than three percent per annum.”<sup>[2]</sup>

It should be noted that, pursuant to the schedules attached to the contracts with the Buyer, the “complete delivery” of the vessels took place on April 25, and May 26, 1960, respectively, so that the 24 months fixed by law for the

payment of the “first” installment expired on April 25, 1962 and May 26, 1962, which are the very due dates stated in the aforementioned schedules for the payment of the respective “1st” installments. What is more, in view of said legal provision, the Commission had no authority to agree that the 1st installment be paid on any later date, and the Buyer must have been aware of this fact. Hence, the parties could not have intended the first installments to become due on April 25 and May 26, 1963. It is, likewise, obvious — particularly when considered in relation to the provision above quoted—that the “ten (10) equal yearly installments,” mentioned in the schedules, refer to the “balance” of the price to be paid by the Buyer, after deducting the “first” installment, so that, altogether there would be “eleven” installments, namely, the “first,” which would be 10% of F.O.B. cost of the vessel — as agreed upon between the Governments of the Philippines and Japan — and “ten (10) equal yearly installments,” representing the balance of the amount due to the Commission from the Buyer, including the interest thereon.

- (c) The Buyer insists that the vessels were “delivered late,” and that, consequently, it would be more in line with the spirit of R.A. No. 1789 to declare that the “first” installments fell due on April 25 and May 26, 1963, respectively. But, the Buyer seeks, not merely the postponement of the first installment’s due date, but, also, exemption from the obligation to pay its amount of P174,761.42. Besides, the dates of “complete delivery” of the vessels are explicitly stated in the schedules as being “April 25, 1960” and “May 26, 1960.” The Buyer would have surely refused to sign the schedules if said entries therein were not true. The signature affixed thereon by the Buyer and the fact that April 25, and May 26, 1960 were made the basis for the date of maturity, not only of the “first” installment, but, also, of the subsequent “ten (10) equal yearly installments,” clearly show that both parties were agreed that complete delivery of the vessels had been made on the dates set forth in said schedules.

- d) This is borne out by the fact that FICI Surety Bonds Nos. 3825 and 4123 are each for the sum P174,761.42. According to paragraph (6) of the Surety's cross-claim, which is admitted in the Buyer's answer thereto, the latter had agreed to pay the premiums and the cost of documentary stamps on said bonds "for 2 years . . . from April 25, 1960 and May 30, 1960, respectively." There can thus be no doubt that the Buyer and the Surety understood that the "first" installments would fall due on April 25, and May 26, 1962 and that the amount of each of those installment would be P174,761.42, not P184,386.34, which would be due on April 25, and May 26, 1963 as appellants would have the Court believe.
- (e) The Surety argues that the "first" installment is the one marked No. 1, for P184,386.34, "which if paid in (10) equal yearly installments amounts to P1,843,863.40, which is the equivalent of the total contract price with interest, of the reparations goods in question." This is not true. Precisely, it is only by including the "first" installment of P174,761.42, among the obligations of the Buyer, and charging the stipulated 3% yearly interest on the balance of the cost price (of P1,747,614.22) after such payment, and after the payment of each of the ten (10) equal yearly installments of P184,386.34, that the full amount of said cost price, plus interest, could be satisfied. In other words, the price agreed upon and the interest thereon would not be satisfied in full, unless the "first" installment of P174,761.42 were paid in 1962, in addition to the ten (10) installments of P184,386.34 each falling due yearly from 1963 to 1972.
2. Appellants assail the decision appealed from, upon the ground that the Commission had no cause of action against them until the cases (Nos. 50194 and 50488) for a declaratory relief shall have been decided, and that, consequently, the lower court erred in dismissing Case No. 50194 instead of Case No. 51552.

As above pointed out, Case No. 50488 was dismissed by Branch XIII of the Court of First Instance of Manila, on October 29, 1962, and the order of dismissal became final and executory upon

the dismissal of the appeal in L-20725 of the Supreme Court, on July 2, 1963, months before the rendition of the decision of Branch VII of the trial court, which is the object of the present appeal, on April 30, 1964. As regards Case No. 50194, which was commenced on April 24, 1962, the contract involved therein (with reference to the M/S Don Salvador or Magsaysay) was infringed by the Buyer when it failed to pay the first installment due the next day, April 25, 1962. The lower court was, accordingly, justified in dismissing that case, inasmuch as an action for declaratory relief may be entertained only “before breach or violation” of the law or contract to which it refers.<sup>[3]</sup> The purpose of the action is to secure an authoritative statement of the rights and obligations of the parties under said law or contract, for their guidance in the enforcement thereof or compliance therewith, not to settle issues arising from an alleged breach hereof.<sup>[4]</sup> Accordingly, after such alleged breach of the law or contract, or once the aforementioned issue has arisen, an ordinary action is the proper remedy. Thus, in *Samson vs. Andal*,<sup>[5]</sup> this Court said:

“If there has been a violation, declaratory relief cannot be granted, for the reason that Sec. 2, Rule 66<sup>[6]</sup> relative to said remedy, provides that ‘A contract or statute may be construed before there has been a breach thereof.’ After breach, the regular remedy obtains.”<sup>[7]</sup>

What is more, Rule 64, Section 6, of the Rules of Court is clear and explicit about it. It provides:

“If before the final termination of the case, a breach of violation of an instrument, or a statute, executive order or regulation, or ordinance, should take place. the action may thereupon be converted into an ordinary action, and parties allowed to file such pleadings as may be necessary or proper.”

Then, too, the facts of record strongly suggest that Cases Nos. 50194 and 50488 for declaratory relief were commenced in anticipation of an action for breach of contract, said cases having been filed precisely on the eve of the due date of the “first”

installment, as to M/S Don Salvador or Magsaysay, and on the very due date of the first installment, as to M/S Don Amando or Estancia. The situation in the case at bar is thus substantially identical to that obtaining in Teodoro vs. Mirasol<sup>[8]</sup> in which the following language was used:

“In the case at bar, We are led to the belief that the present action in the Court of First Instance was prompted by a desire on plaintiff’s part to anticipate the action for unlawful detainer, the probability of which was apparent plaintiff took advantage of defendant’s delayed suit to file this case in the Court of First Instance in anticipation of the action for Unlawful detainer, in order perhaps that he may claim that the action in the Court of First Instance was prior to the unlawful detainer case, and, therefore, should enjoy preference over the action filed in the Municipal Court.

“It is to be noted that the Rules do not require as a ground for dismissal of a complaint that there is a prior pending action. They provide that there is a pending action, not a pending prior action. The fact that the unlawful detainer suit was of a later date is no bar to the dismissal of the present action.

“Plaintiff’s action for declaratory relief is improper; this action is meant only for those cases where a contract is desired to be construed prior to its breach because of an impending controversy that the parties thereto may be informed of the rights thereunder. In the case at bar, there has already been a breach hence the action for a declaratory judgment is no longer proper.

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“There is no longer any need for the action, even if proper, because the matter could be threshed out in the unlawful detainer suit that the defendant had instituted in the municipal court.”<sup>[9]</sup>

Indeed, otherwise, an action for a declaratory relief could be availed of to, in effect, suspend, during its pendency, the force and operation of the contracts in question, and thereby achieve a compulsory deferment or postponement of the maturity of the obligations therein validly contracted and assumed. Obviously, the Court cannot give the stamp of its approval thereto.

3. The Surety maintains that, pursuant to the terms of its Bonds Nos. 3825 and 4123, the same expired on April 25, and May 26, 1961, respectively, so that it was no longer liable under the Bonds when the “first” installments became due on April 25 and May 26, 1962.

Suffice it to say that, not having been pleaded in the Surety’s answer or otherwise raised in the lower court, such defense cannot be set up, for the first time, in this appeal.<sup>[10]</sup> Moreover, it is inconsistent with the cross-claim of the Surety, against the Buyer, for the sum of P10,641.68, representing the premiums and the cost of documentary stamps on said Bonds, for a period of two (2) years from April 25, 1960 and, May 30, 1960, which premiums and documentary stamps could not be due if the bonds were not in force during said period of two (2) years.

Again, in said bonds, the Buyer, as principal, and the Surety, as such, firmly bound themselves unto the Reparations Commission, in the sum of P174,761.42, pursuant to the contract between the Buyer and the Commission, on condition that, if the Buyer “shall well and truly keep, do and perform, each and every, all and singular, the matters and things in the contract set forth and specified to be” by the Buyer “done and performed at the time and in the manner in said contract specified, and shall pay over, make good and otherwise satisfy the obligations required under the contract, then the said bond shall be released upon payment of all the sums due” to the Commission, “otherwise, said bond shall ipso facto be forfeited in full in favor of” said Commission.

Thus, the intention of the parties was, clearly, to guarantee compliance with the aforementioned obligations. The first of such obligations, in point of time, was the payment by the Buyer

of the “first” installments which were to become due on April 25 and May 26, 1962, that is, one year or about a year after the alleged expiration of the Bonds. Were We to accept the theory of the Surety, the result would be that it had never contracted any obligation or assumed any liability in favor of the Commission, in consequence of the execution of said bonds and that, for all intents and purposes, the contracts under consideration were, accordingly, devoid of any guarantee. Such result is manifestly contrary to the intention of the parties. And this explains why the Surety has not set up said defense in its answer.

Referring to the stipulation in a bond to the effect that the liability thereunder would expire on the date of maturity of the principal obligation, this Court declared that said stipulation in effect nullified the nature of said bond, and was, therefore “unfair and unreasonable,” as well as “a subtle way of making money thru trickery and deception.”<sup>[11]</sup> The situation in the case at bar is even worse, since the Surety contends that its bond expired about a year before the first installments had become due.

It may not be amiss to note that the rule of strict construction of surety bonds “does not apply to the engagements of corporate sureties engaged in the business of furnishing bonds for compensation, and who are, furthermore, secured from all possible loss by adequate counterbonds.”<sup>[12]</sup>

4. The Surety impugns the P300 awarded thereto by way of attorney’s fees, upon the ground that the fee agreed upon with the Buyer is “20% of the total amount due.” It is well settled, however, that courts of justice have discretion to fix the amount of attorney’s fees,<sup>[13]</sup> and We do not feel that such discretion has been abused by His Honor, the trial Judge, considering that the Surety had mainly relied upon the defenses set up by the Buyer, and that the ultimate liability of the Surety is principally dependent upon the amount of the principal obligation that the Buyer may be unable to satisfy.

The other assignments of error made by appellants herein are mere corollaries to those already disposed of, and, hence, need no further discussion.

**WHEREFORE**, the Decision appealed from is hereby affirmed in toto, with costs against appellants herein.

**Reyes, Dizon, Makalintal, Zaldivar, Castro, Fernando, Teehankee, Barredo and Villamor, JJ., concur.**

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- [1] Mangila vs. Lantin, L-24735, Oct. 31, 1969; U.P. Board of Regents vs. Auditor General, L-19617, Oct. 31, 1969; Asturias Sugar Central, Inc. vs. Commissioner of Customs, L-19337, Sept. 30, 1969; PNB vs. Court of Appeals, L-27117, July 30, 1969; Nielson & Co., Inc. vs. Lepanto Consolidated Mining Co., L-21601, Dec. 28, 1968; Rivera vs. San Miguel Corp., L-26197, Aug. 30, 1968; People vs. Doriquez, L-24444, L-24445, July 29, 1968; Alhambra Cigar & Cigarette Co. vs. Securities & Exchange Commission, L-23606, July 29, 1968; Andico vs. Judge Roan, L-26563, April 16, 1968; Le Hua Sia vs. Hon. Reyes, L-21686, April 16, 1968; Bachrach Trans. Co., Inc. vs. Rural Transit Employees Assn., L-21768, Aug. 23, 1966; Republic vs. Reyes, L-22550, May 19, 1966.
- [2] Italics ours.
- [3] Rule 64, Sec. 1, Rules of Court.
- [4] Dy Poco vs. Comm. of Immigration, 1-22313, March 31, 1966.
- [5] 89 Phil. 627, 628.
- [6] Of the old Rules, now Rule 64, Sec. 1.
- [7] Italics ours.
- [8] 99 Phil. 150, 153-154.
- [9] Italics ours.
- [10] Atlas Consolidated Mining & Development Corp. vs. Workmen's Compensation Commission, L-22439, May 29, 1970; Permanent Concrete Products, Inc. vs. Teodoro, L-29766, Nov. 29, 1968; Gutierrez vs. Court of Appeals, L-25972, Nov. 26, 1968; Yu Kimteng Construction Corp. vs. Manila Railroad Co., L-17027, March 3, 1967; Board of Assessment Appeals vs. Manila Electric Co., L-15334, Jan. 31, 1964.
- [11] Ongsiako vs. World Wide Insurance & Surety Co., 104 Phil. 61, 64.
- [12] Republic vs. Umali, L-23066, March 1, 1968; Pastoral vs. Mutual Sec. Ins. Corp., L-20469, August 31, 1965 Atkins, Kroll vs. Reyes, 105 Phil. 640, 644; Pacific Tobacco Corp. vs. Lorenzana, 102 Phil. 234; Philippine Surety & Ins. Co. vs. Royal Oil Products, 102 Phil. 326.
- [13] San Miguel Brewery, Inc. vs. Magno, L-21879, Sept. 29, 1967; Insurance Co. of North America vs. Manila Port Service, L-23124, Oct. 11, 1967; Balmes vs. Suson, L-27235, May 22, 1969; Philippine Trust Co. vs. Policarpio, L-22685, August 25, 1969; Nielson & Co. vs. Lepanto Consolidated Mining Co., L-21601, December 28, 1968; De la Cruz vs. De la Cruz, L-27759, April 17, 1970.

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